OVERSIGHT OF THE GENERAL SERVICES ADMINISTRATION—1982

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BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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OVERSIGHT OF THE GENERAL SERVICES ADMINISTRATION—1982

THURSDAY, SEPTEMBER 30, 1982

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 10 a.m., in room 3110, Dirksen Senate Office Building, Hon. William S. Cohen, presiding.

Present: Senators Cohen, Eagleton, Pryor, and Levin.

OPENING STATEMENT OF SENATOR COHEN

Senator COHEN. The committee will come to order.

The Governmental Affairs Committee is holding this oversight hearing to evaluate the management and operations of the General Services Administration, most of whom seem to be in the audience today. [Laughter.]

The General Services Administration has had a troubled past. In the last 10 years, the agency has had eight different Administrators—several of whom pledged to institute management reforms that would finally end the scandals that have rocked the agency. But the problems have persisted. Since 1978, there have been countless congressional investigations and hearings documenting severe shortcomings and, in some cases, outright fraud in the agency's operations. Indeed, the GSA became a symbol of bureaucratic inefficiency, waste, and abuse.

Gerald Carmen, the present Administrator, inherited a host of longstanding problems plaguing the agency that will not be solved overnight. It takes time to straighten out such ingrained inefficiencies. Nonetheless, in my judgment, Congress has an obligation to review the progress that Mr. Carmen has made to date in cleaning up the GSA, and to suggest other areas that still require substantial reforms.

Although the GSA has had a troubled past, there is no reason why it cannot have a bright future. This enormous agency, which acts as the landlord and supplier for the entire Federal Government, should have the most streamlined and responsive management of any Federal agency. With diligent efforts on the part of the Administrator and effective congressional support, I am convinced that the GSA can become a model for the agencies that it services.

I look forward to hearing Mr. Carmen's statement on the reforms that he has implemented and to questioning him. He has been the head of GSA since April of 1981. Mr. Carmen, I can see that you are accompanied by a number of people. Would you please introduce the gentleman to your right for the record and any others that you anticipate calling upon during the course of the morning?

TESTIMONY OF GERALD P. CARMEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY RAY KLINE, DEPUTY ADMINISTRATOR; LESTER MITCHELL, ASSISTANT ADMINISTRATOR, OFFICE OF PERSONAL PROPERTY; JOSEPH SICKON, INSPECTOR GENERAL; CARROLL JONES, DIRECTOR, FEDERAL PROPERTY RESOURCES SERVICE; ALLEN W. BERES, COMMISSIONER, TRANSPORTATION AND PUBLIC UTILITIES SERVICE; ALLIE LATIMER, GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL; BOND R. FAULWELL, DIRECTOR, OFFICE OF ORGANIZATION AND PERSONNEL; AND ROBERT M. WARNER, ARCHIVIST OF THE UNITED STATES

Mr. Carmen. Mr. Chairman and members of the committee, I'm pleased to have the opportunity to appear before you today for this oversight hearing on the General Services Administration. With me at the witness table is GSA's Deputy Administrator, Mr. Ray Kline. In the room are the heads of GSA services and staff officials who will be available to answer questions. I will introduce them at the appropriate time.

The text of my full statement has been submitted for the record.

With your permission, Mr. Chairman, I do have some additional comments I'd like to make at this time.

I came to Washington 18 months ago with a great deal of concern about the condition of the Federal Government, and about the attitude of the American people toward their Government. Two years ago the confidence level of the average taxpayer in Government performance was at an all-time low. As the head of GSA, my personal goal was to improve our part of the Government; to make it work better; to reduce its size; and to have it cost less, and, in so doing, to rebuild people's confidence in their Government and this agency.

The direction, the achievements, and the momentum of GSA during the past 15 months have been a much needed tonic for those of us who work for GSA and for the taxpayers who pick up the bill. Everyone's attitudes toward GSA is changing for the better. Much more needs to be done than has been done, but we have made a new beginning.

When I appeared before this committee for my confirmation hearing in April of 1981, you warned me that I was taking on one of the toughest jobs in Government. If I didn't agree then, I certainly do now. In fact, Senator Pryor said, and I paraphrase his remarks, that he hoped the next time I appeared before this committee, the committee would give me the Distinguished Service Cross, and not the Purple Heart.

I don't expect a medal, and I've not shed any blood. But 30,000 devoted GSA employees do deserve medals for working to make GSA an agency that we can all be proud of and that this committee can count on to carry out its legislative mandates.

I suspect most of you have never visited GSA, so you haven't experienced, as I have, walking down half-lit corridors, with walls and floors that looked like they hadn't been cleaned since Teddy Roosevelt's day.

I had inherited an agency of roughly 37,000 employees with a seige mentality. GSA was an organization which had been held up to public scorn—an agency branded as the symbol of waste, fraud, and abuse—an agency the media painted as a candidate for elimination. GSA truly displayed the stigma of a last place team with less than first-class players.

Today, I'm pleased to report, GSA is a different place. If we're not in first place, we're certainly ready for the playoffs. Our direction is good. We've had some real solid accomplishments.

The people at GSA have done this themselves. For the most part, they are the same people who were here before. And they have accepted the challenge to "give it your best" and have succeeded. When the next Administrator walks down the halls of GSA, the floors will be clean, the lights will be bright, and the employees will be proud they work for GSA and for the Federal Government. And even the taxpayers may be glad that there is a GSA.

Mr. Chairman, I believe there is a great story unfolding at GSA, not because there is a new Administrator, but because the people have found themselves. They have responded to the need we all have to do something worthwhile and to do it well.

The organization currently in place at GSA has solved some problems. It has done some things right. And it has done some things wrong. We fixed the most immediate things that needed fixing; some brought to our attention by the media, the public, and legislative interests; others uncovered in our own management efforts to reverse GSA's direction. GSA cannot be made perfect in a day, a week, a month—or 15 months—or perhaps ever. All we can do is continually press ahead to improve what we have. This we have done. This we will continue to do.

I judge GSA's success in carrying out our mission by pointing to progress in three key areas: Budget restraints—increased productivity through greater efficiency at lower costs; client services—improved relationship with our customers, the Government agencies; and control of waste, fraud and abuse—maintenance of agency and program integrity.

We are doing a better job now than before. And we're doing it with less money and with fewer people. Today's GSA is more efficient, and less costly. Today's GSA is leaner, but more responsive to the needs of our client agencies. Today's GSA is more businesslike, with bottomline accountability to the taxpayers who pick up the tab.

Here are some of the things we've done internally to improve the management of GSA.

We fully supported the congressionally mandated 16-percent reduction of requested funding for fiscal year 1982. For us, that meant a drop of $230 million in appropriated funds, and a reduction of more than $38 million in direct obligations for direct expenses.

Since September 1980, the total paid GSA work force has decreased by over 7,000 employees. This reduction brings with it savings to the taxpayers of roughly $150 million.

The personnel reduction results from a tough hiring freeze and subsequent attrition, which is preferable to the complex and counterproductive RIF process. Only 160 people left involuntarily because of budget reductions. Our approach was more humane and easier on our employees than massive RIF's or furloughs would have been.

As the size of the Federal work force diminishes, we must plan for a more economic use of space.

At GSA, we applied a 20-percent office space reduction goal for fiscal year 1982. We surpassed our goal in April 1982, when we achieved a 22-percent reduction in office space agencywide, with savings of $6.2 million annually.

As custodian of space for civil agencies of Government, we set an example which, if followed, could save billions of dollars over the next several years.

As Administrator, my job at GSA was to assemble a top-notch management team, point them in the right direction, provide them with the tools to do the job, and then turn them loose to do it. And that's what we've done. My full statement, Mr. Chairman, underscores many improvements and achievements within GSA's major service areas and staff offices.

In the statement, I've shared with you many of the good things we've done. But, we could provide a volume of things we haven't done—on things we still need to do. We need to continue to work on improving our management systems; our information systems; our financial systems, our long-range strategies, and our long-range planning.

As in any $6 billion company, everyday, somewhere in this country, something goes wrong and we work to fix it. The GSA leadership, working together, is trying to move from putting out fires to getting a handle on the whole agency in an effort to prevent problems before they happen. This will take time. Many of you will be concerned when things happen that shouldn't. But you can be assured we will move quickly to correct what is wrong. We'll learn from our mistakes; improve our systems, and prevent them from happening again.

In summary, Mr. Chairman, I would like to stress that I am not known as a person who is easy to please. In fact, I wish we could have done more. But I am proud of the improvements we have made at GSA. I'm proud we have moved toward our goal of restoring credibility and integrity to one part of our Government.

We have proven in some small way that the work can be done with less cost and fewer people. In 1982 we truly did more, and we did it with less. We welcome this inquiry. We welcome your comments and your support. We, the executive and legislative branches, share equally in the public's perception of our success or our failure. We need your help and assistance to insure success and to insure the advantages that this success brings to the American people.

That completes my statement, Mr. Chairman. I will be happy to respond to questions from you and other members of the committee.

Senator COHEN. Thank you very much, Mr. Carmen.

I have a number of questions, but before proceeding with them, I would like to yield to Senator Eagleton for any statement he might like to make.

OPENING STATEMENT OF SENATOR EAGLETON

Senator **EAGLETON**. Thank you, Mr. Chairman. I do have a brief statement. I want to thank you, Mr. Chairman, for taking the time from your busy schedule to Chair this oversight hearing. I want to express my apology to Mr. Carmen for the fact that scheduling problems made it necessary for the committee to postpone the hearing when it was originally scheduled.

In my view, the type of wide-ranging oversight hearing which this promises to be can serve a useful purpose for all concerned. Necessarily, it forces the agency head to prepare himself generally; to take stock of his operations and his achievements and, as he has pointed out, some areas of weakness in GSA in a way that he might not otherwise find the time to do. It provides members of the Oversight Committee a chance to assess the agency head's overall performance and to raise areas of their own particular concern in an effort to sensitize the agency to those issues .

In this instance, preparing for the hearing also gave me a chance to reflect and reminded me that Mr. Carmen undoubtedly has one of the most difficult, and at times, thankless jobs in the Federal Government. The problems of running GSA effectively are legion, and they go far beyond the agency's reputation for inefficiency, even corruption, in previous years. A 1980 study of the agency by the National Academy of Public Administration put the problem this way:

> A review of the history reveals all too clearly that the problems besetting GSA today are, for the most part, modern counterparts of issues confronting the agency almost since its creation. Many of these problems are, in a sense, self-perpetuating. The lack of agreement on what the proper role of the agency should be, especially the confusion over the policy versus operations emphasis, has undermined the agency's effectiveness since the beginning.

Later on in the report, the National Academy of Public Administration said this:

> Without a reliable rudder to steady it on a set course, GSA has drifted in different directions and, with time, has been encumbered with increasing burdens which threaten its ability to stay afloat. Over the years an extraordinary number of diverse functions has been assigned to the agency at the same time that the Federal Government has been expanding its areas of program activity and the housekeeping demands to service those activities.

A final quote from that study:

> Congress has legislated increasingly complex requirements which govern the delivery of the services GSA is expected to deliver. Statutes and regulations pertaining to equal opportunity, small business, health and safety, rights of the handicapped and other deserving social goals have greatly complicated the performance of the tasks assigned to the GSA.

In conducting this oversight hearing and assessing the performance of Mr. Carmen and future GSA Administrators, it is important to keep the extraordinarily complex and conflicting mandates of the agency in mind. At the same time, the difficulty of running GSA cannot excuse management actions that are ill-conceived or counterproductive or which are plain wrong-headed.

Nor is it a good reason for us to overlook actions by the agency head which may have the effect of harming the morale of agency employees and the image of the Agency to the public rather than improving it.

Regrettably, in my view, the Agency has not been helped by reports of Mr. Carmen's loan and tax problems, highly publicized personnel transfers which seem punitive, or the recent disclosures of the GSA investigative units apparently warring among themselves.

These problems, some of which we will undoubtedly discuss today, can, at the very least, detract seriously from legitimate accomplishments of the agency. If such incidents continue to occur, they can too easily become the dominant motif.

That is the conclusion of my opening statement.

Senator COHEN. Thank you very much, Senator Eagleton.

Mr. Carmen, Senator Eagleton has pointed out that as the general manager of the Federal Government, you assume many different roles—maybe even too many—that include being landlord, purchasing agent, property manager, telecommunications and computer expert, recordkeeper and travel agent.

Senator Eagleton also pointed out that the National Academy of Public Administration has recommended some rather extensive overhauls to the GSA. I was wondering what your personal opinion was as to whether or not reforms were needed that GSA couldn't accomplish by general administrative fiat alone?

Mr. CARMEN. Well, my own attitude toward the job, when I accepted it, Mr. Chairman, was that the agency itself had to be restored to some kind of credibility in our own performance and in all the areas we were charged to undertake.

I think Senator Eagleton properly states the issue when he talks about the various things that we have to accomplish.

Our mission over the last 15 months was really to stabilize the ship and to continue on a course which was credible, maintaining the integrity of the agency, and doing the work that we had assigned ourselves. That, in itself, has been a full order, and while the NAPA study dealt with those particular issues, it also dealt with other elements such as the makeup of GSA and the rigidity of its organization and the ability of the existing organization to resist change.

We have worked with the NAPA study and have followed it rather closely, as a matter of fact, in trying to accomplish our gains. But I think in the first 15 months, we have attended to performance of the missions that were assigned to us rather than looking ahead 5, 10 years down the road.

Senator COHEN. Mr. Carmen, you indicated in your written testimony that audits are a very important management tool. I note that in the first 6 months of fiscal year 1982, however, the GSA conducted 15 preaward audits and 50 postaward audits on over 3,000 multiple award contracts for office supplies, which amounts to only 2 percent of all of those contracts.

I was wondering why so few audits have been completed?

Mr. CARMAN. I think I would prefer to have our Inspector General, Joe Sickon, deal with that question, if it is all right with you, but I might state at the front that we have worked closely together on that area.

I think you will find that the quality of our audits is substantially better than they might have been in the past, and while the quantity may leave something to be desired, I think you will find the quality is really much improved.

Senator COHEN. I don't want to take issue with you on that point—that you can have the greatest quality investigations or audits for a very limited number of contracts—but even if the audits conducted are 100-percent effective, you are only doing 2 percent.

There is a very real possibility that there is a lot of fraud, waste, and inefficiency occurring in the other 98 percent of the contracts awarded.

Mr. CARMEN. I will let the Inspector General, Joe Sickon, answer.

Mr. SICKON. Mr. Chairman, I believe those numbers you quoted were 6-month numbers. The numbers we have for October 1 through August 31, 1982, are preaward, 380; postaward, 102, for a total of 410. In the preaward contract area, we questioned about $56.9 million, and in the postaward area, $22.6 million.

Senator COHEN. How does that compare with the year before?

Mr. SICKON. I don't have the numbers for last year, but they are generally down because we have had a reduction in personnel and a reduction in the travel. These reductions have influenced the quantity, but not the quality, of work.

Senator COHEN. It is my understanding that you have had a reduction of approximately 100 personnel in the Office of Inspector General.

Mr. SICKON. Yes. We have had a 19-percent reduction in people and it was 60 some percent, I believe, in travel. This has inhibited accomplishing audits and investigations.

Senator COHEN. Would you agree that there is, perhaps, a direct correlation between the auditing function of the Inspector General and the ability to ferret out waste and fraud in Government contracts?

Mr. SICKON. I would think that it is true.

Senator COHEN. As a result of the reduction in OIG resources there may not be an impact upon the quality of the investigations and audits that are conducted, but certainly, as you have indicated, the quantity?

Mr. SICKON. Yes. Many of the investigative leads come from audits, as well as other sources, but certainly, audits are a source of leads for investigating things that are wrong.

Senator COHEN. I understand that the IG has initiated only three proactive investigations on its own in the first 6 months of fiscal year 1982 compared to 21 in the first 6 months of the year before.

Mr. SICKON. I don't know where that number comes from. Our investigations are initiated by "hot line" calls, by referrals from the audit side and by requests from management.

Senator COHEN. Let me ask you another question then.

Has there been a reduction in OIG white collar criminal investigations during this past year?

Mr. SICKON. I would have to submit that for the record, Mr. Chairman. I don't have the number.

Senator **Cohen**. My understanding is that there was a 39-percent reduction in investigations of white-collar criminal cases for the first half of fiscal year 1982, and, in addition, OIG has referred only 52 cases to the Justice Department compared to 120 cases for the same time period last year.

Again, this may be due to the fact that you have had a rather substantial cut in personnel, but I would like to know if there are other reasons for it.

Mr. **Sickon**. I believe the data that you are quoting is incomplete data, from a preliminary report.

I don't believe those figures are final. I would be very pleased to submit that for the record.

Senator **Cohen**. OK. Well, I am using the information that was supplied to me by GSA itself.

Mr. **Sickon**. I understand, Mr. Chairman, but somebody, as I understand, took those figures out of a preliminary report.

[The following information was subsequently received:]

During fiscal year 1981 the Office of Inspector General opened 677 investigative cases and made 194 criminal subject referrals to the DOJ; referrals to GSA management also accounted for the suspension/debarment of 77 contractors or individuals. During the first 11 months of fiscal year 1982, the Office of Inspector General opened 555 investigative cases and made 123 criminal subject referrals. Referrals to GSA management accounted for the suspension/debarment of 90 contractors or individuals. The fiscal year 1982 figures do reflect a decrease in the quantity of investigative activity within the office. The decrease in activity is in large measure the result of budgetary limitations imposed in fiscal year 1982 and the associated reduction of personnel during the period. The continuing resolution for the Office of Inspector General during fiscal year 1982 underfunded the Office by $3,125,000; as a result, only five vacant positions have been filled. Since October 1981, the on-board staff of the Office of Inspector General has been reduced from 518 to 421, or more than 18 percent.

Senator **Cohen**. OK.

Mr. Carmen, let me come back to the issue of internal control systems.

According to some newspaper accounts, GSA's San Francisco office missed lease renewal options of generally leased property, which will cost the taxpayers somewhere in the neighborhood of $24 million more than necessary.

I was wondering, is this an isolated example, or does it generally reflect on GSA's inadequate internal control systems?

Mr. **Carmen**. Senator, if I could just deal with the previous question before I get to the last question, I don't think it is fair to let the record infer that because we have found less white collar crime that something is going undiscovered.

The suggestion is that it may be going on undiscovered, but I think if the crime rate went down in the United States, I would like to think that there weren't more people guilty of crime going free.

Senator **Cohen**. I am sorry. You said crime is going down in the United States?

Mr. **Carmen**. I said that if the crime rate was going down in the United States, I would rather think that was a constructive thing rather than it just being undiscovered. My only point is that I think that GSA went through a tremendous upheaval back 4 or 5 years ago, and a lot of investigations stemmed from that time frame.

I don't mean to interfere in the IG's assessment, but we would like to think that the number of these investigations have gone down and some of that heat has gone away because things are truly better at GSA and not because we haven't discovered things that we should be discovering. Being an optimist rather than a pessimist, that is the way I prefer to look at things.

The other thing is, I think that——

Senator COHEN. Let me just interrupt for a second.

I don't want to challenge you on that issue. I hope you are making a correct assumption that there are fewer investigations because there are fewer crimes being committed. But let me tell you as one Senator sitting here day after day exercising my oversight responsibility, in about every facet of our government in which Federal dollars are involved, from the home health care industry to the pacemaker industry, fraud and abuse are rampant.

Mr. CARMEN. There is absolutely no suggestion that that is not the case and that there probably is some fraud and abuse going on in GSA. You and I are both aware that it goes on in the private sector, as well, and it is probably proportionate——

Senator COHEN. The private sector is doing very well at the expense of the Federal taxpayer. [Laughter.]

Mr. CARMEN. My point is that all of us share, in a way, the limitations of resources, including the Inspector General's Office. I looked at the Ford Motor Co., for instance, which has, I think, $36 million in sales or they had at the time I looked at it.

I think they had about 140 or 160 auditors on board at that time plus a contingent of outside auditors.

Somehow or another, even though we have to rid the Government of this waste, fraud, and abuse, we also have to keep in balance the resources that are assigned to the task. Maybe there are better ways to do the things you want to do. Throwing money at the problem isn't always the answer.

Regarding the so-called missed leases, to put that in perspective, it is my information that the mistakes were made in 1977 and 1978, when the information was put into the system.

The reason we came to GSA was to clean up exactly that kind of thing, and whenever it occurs, we move out vigorously to correct it. We have done that.

The process of correcting the situation is in place. We discovered not only that lease, but I think three others that had the same possibilities, and we moved vigorously to change the system, to correct the system and to see that it doesn't happen again.

As far as the potential loss to the Government, that has not yet been determined. Part of what we bring to the agency is that we do not to accept a potential loss just because it looks like you have to on the surface.

We are in some very difficult negotiations now to see whether we can recapture the potential loss, either through using less space, moving, or further negotiations so that the loss won't necessarily be as reported.

While the report stated that the Government had a potential of $20 million in losses, I think, over a 10-year period—and if anyone knows me, that is totally unacceptable—the universe of leases in that timeframe is in excess of $7 billion. So when you put the thing into perspective, you are talking about a possible $22 million error in a $7 billion universe.

Senator COHEN. I am not questioning that. What I am asking you is whether this is an isolated example, or are there other instances of that type of oversight or failure to exercise the proper options?

Put in its proper perspective, I would agree with you that it is not, by percentage, a great deal. But if it is magnified on a number of different levels, then it would amount to a significant loss.

Mr. CARMEN. We review our 11 regions. We think we are putting in the controls to prevent this kind of thing from happening. We have discovered that there are three other potential problems, and that is what we have been able to find nationwide. We hope that it will not recur.

Senator COHEN. Do you have any system for accounting for all of the personal property at GSA?

Mr. Sickon, do you have any sort of an inventory of personal property under control at GSA?

Mr. SICKON. No, Mr. Chairman. My office wouldn't maintain such an inventory. The program area would have that kind of system.

Senator COHEN. What about the internal control systems?

Are you satisfied that GSA has sufficient internal control systems that have corrected the deficiencies that were identified back in 1977 when the review was first conducted?

Mr. SICKON. We are continuing to look at all of the management and internal control systems within GSA. As most systems, whether financial or administrative, there are areas in those systems that can be improved, and GSA management has been responsive to our recommendations for improving those systems. I think systems integrity is an ongoing kind of problem that has to be looked at continuously and improved on all the time.

Senator COHEN. Mr. Carmen, let me turn to one more issue before I yield to Senator Eagleton. I have seen a number of reports concerning the sale of GSA property in San Francisco to the city for a negotiated price of about $17 million. What is the current status of that proposed sale?

Mr. CARMEN. The status is that the IG has reviewed the sale. He has made some suggestion, and they are looking at the suggestion to see how we want to move on that. It is still my opinion that the Government ought to sell what it does not need and buy only what it does need.

The banking of unutilized facilities for 10, 15, 20 years, we are talking about commercial properties now, is not an acceptable approach to me.

Senator COHEN. My understanding is, however, that those who were directly involved in the negotiations of that property were opposed to it being sold.

Mr. CARMEN. What was said to me in my office about swapping property or selling property was this: That is, when we sell property, the money which we get goes to the interior land bank fund and we lose the asset at GSA.

If we keep property, no matter how long, we don't pay taxes on it; we don't maintain it, it deteriorates, but if we keep it, then it stays an asset of GSA, and its Public Building Service. That is a provincial outlook.

There was never any suggestion, that I can recall, or at least any issue made of whether it was better for the U.S. Government to sell that property or keep it. I think any close look at the situation will determine that it makes absolutely no sense not to dispose of the problem.

Senator COHEN. You mean there was no one in GSA that recommended that?

Mr. CARMEN. They all recommended it, but the discussion was based on the fact that GSA is a separate company and that we don't pay taxes on the property and it doesn't continue to cost us any money, that we can hold on to a piece of property or two pieces of property in the center of a community and take them out of the economic cycle.

It is my opinion, and it is a personal opinion, that if the Government has property, commercial property, that it doesn't use or that is underutilized, it should be sold.

When and if we want to build buildings or construct something, we ought to buy the land which we are going to put those buildings on so that it is clean and the public and the Senate and everybody can see what it actually costs. Anything else doesn't make any sense at all.

Senator COHEN. Did the Inspector General make any assessment or preliminary determinations as to whether or not you had sufficient facts or cost analyses to determine whether the property should be sold as opposed to being swapped? Or is this really a philosophical position on your part, as head of the GSA, that whenever property is not in full or productive use, it ought to be sold?

Mr. CARMEN. I think the Inspector General can speak for himself, but I think the Inspector General would have liked to have seen an economic study of the decision.

Senator COHEN. Has any economic study been completed?

Mr. CARMEN. We have two opinions on that. I suppose you can hear both of them.

Mr. SICKON. The question, Mr. Chairman, was—could you repeat it?

Senator COHEN. The question is whether or not the IG recognizes that there should be a thorough cost analysis before a decision is finally made as to whether the property should be sold, swapped, or retained?

Mr. SICKON. The answer is "Yes." That is exactly what our report did recommend: That the alternatives be costed out and evaluated and the decision made on the most cost-effective alternative.

Senator COHEN. The reason I raise the question is to determine, again, whether or not this is an isolated example of a decision made to sell or to dispose of property without an adequate cost analysis, or does it reflect your basic philosphy, Mr. Carmen, to get rid of property which GSA is not using.

What is going to be the policy?

Mr. CARMEN. With the caveat that it is required that we get the best possible price that we can get for the Government.

I would like Commissioner Jones to address the way we went about determining the price if he would.

Mr. JONES. Mr. Chairman, after a property is determined to be in excess of Government needs, it is turned over to the Federal Property Resources Service, subsequent to Mr. Carmen's decision in this particular case.

This particular property was appraised by a professional appraiser in the San Francisco area, and a fair market value price was determined. Subsequent to that determination by the appraiser, the negotiations between the members of my Service out there at the regional office were instituted with the city.

There has been a suggestion that the price may or may not be suitable as fair market value, but I would like to point out that through extensive negotiations, a price was agreed upon, a sale price, which exceeded the appraised fair market value by in excess of $2 million.

Senator COHEN. The OIG audit report that I have shows that the sale negotiations were based on an appraisal which may have understated the property's value.

Mr. JONES. That is what the report states. I disagree with the report, particularly that portion of the report which suggests certain factors out there should be taken into account such as the assemblage and plottage.

In this particular case, if you take the appraisal ethics into consideration; it would place a prospective purchaser under substantial duress.

We have reviewed that particular matter with the 7th Edition of "The Appraisal of Real Estate" published by the American Institute of Real Estate appraisers, as well as "Real Estate Appraisal Terminology" published by the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers.

Senator COHEN. You mean the IG is insensitive to the ethics of real estate appraisers?

Mr. JONES. No; I am not saying that, Senator. All I am saying is that my Service, which is staffed by professionals in that area, disagreed with his conclusions and felt that perhaps the information that was available to him led him to that conclusion, and we dispute his conclusion. And we responded to it.

Mr. CARMEN. I think what you are getting a chance to see is the way the new GSA works. Instead of this being an accomplished fact and you sitting up there and asking us why we did something, you are seeing the kind of natural attention and discussion that we have before we do something. This property has not been sold. The papers have not been signed off. They have not gone to the Hill.

What you are seeing is the kind of thing that goes on in my office as two heads of services discuss an initiative. I think in the past you would have been asking me why I sold the property at less than I could have.

Senator COHEN. That is why I asked you about the status of the sale.

Senator Eagleton?

Before you start, Senator Eagleton, I will request that the GSA Inspector General report,[1] prepared by the Office of Audits, be part of the record and perhaps Mr. Jones would submit whatever testimony he would like to counter this particular document so we can establish a complete record.[2]

Senator Eagleton?

Senator EAGLETON. Thank you, Mr. Chairman.

I, too, was going to inquire into the San Francisco matter, the proposed sale or exchange. I will just follow up with a couple of questions on your line of questioning.

Mr. Carmen, how did you go about determining to your satisfaction that the exchange option was not viable?

Mr. CARMEN. Senator, I will go through the steps. We had two cases like that. One in Florida and the one in San Francisco. The way I got into that case was that I got a call in August, I think, from the mayor of San Francisco who told me of their need for the piece of property that we owned, and that for some time GSA and the city of San Francisco had been trying to swap that property. They had been unable to come to terms at that time on values and on an agreement on what piece of property we wanted for the building we might build there. At that point in time, she said to me, "The city of San Francisco would like that property" and was willing to pay what it was worth. Now, as all of you know, most of us are faced almost daily at GSA with people who want property for nothing. We are dealing with conveyances vanities in the various cities,towns, and communities.

This was a case where the city called and said, "We need a piece of property. We will pay what it is worth. You people are not going to use that particular piece under any conditions. Why can't we buy it?"

It seemed to me that if the Government had a piece of property that wasn't being used: that somebody was willing to pay what it was worth; that it made sense to sell it. I don't think that is a philosophical judgment, I think that makes sense. We moved out from there. It is my understanding that the swap of the property was not really a doable thing until just recently when it seems to have been revived. Even in that case, we haven't established equal values of the pieces or decided whether the offered piece is something we need or not. So, it is back up in the air again.

Senator EAGLETON. The regional people favor the swap and previous regional administrators, likewise, favored the swap approach, is that right?

Mr. CARMEN. In 9½ years, nobody has been able to find a piece to swap.

Senator EAGLETON. But the matter was coming to a head, was it not?

Mr. CARMEN. No. I think at that time, the mayor—and we supported that, for the record at the hearing—the mayor was interested in buying it, not swapping for it.

Senator EAGLETON. I am interested in how you went about making this decision. You stated in testimony before the House, "I just simply made the decision. It may very well be that we will need a Federal building in San Francisco. At that point, we ought to buy the land and build the building." You said words similar to that today. How did you make an attempt to determine that land appropriate to Federal building needs would be available under reasonable terms within a timeframe in which the Government might want to build the long-awaited office building?

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[1] See p. 53.

[2] See p. 69.

Mr. CARMEN. My determination was that this was an issue that had been under discussion for 9 or 10 years. The earliest that I could see a new building coming up would be in the next 5 to 10 years, which is a 20-year span, and that since none of us can really predict that far into the future, that the wise and prudent thing was to preserve the money that the taxpayers had invested in that piece of property.

Senator EAGLETON. Did you have some specific knowledge about land availability in San Francisco when you opposed continued Federal ownership, or were you more or less acting on your own gut hunch?

Mr. CARMEN. Oh, no. We are looking at, for instance, a probable reduction in Federal personnel over the next 5 years. We are looking at changing market conditions. We have looked at values. We have looked at both the intent and actions of the Congress in appropriating money for a building. All those considerations, and others, taken together, simply say, Senator, that the Government should sell what it doesn't need and buy when it does need it.

We also have looked at expanding the areas in which we build Federal buidings in regional centers in order to, perhaps, move us further away from the high-cost centers which have, in effect, driven up the cost of leasing and building.

Senator EAGLETON. What was Mr. Fred Malek's involvement in this San Francisco property matter?

Mr. CARMEN. I wouldn't know that gentleman if he walked in the room. I received a letter from him, and that is the full extent of it.

Senator EAGLETON. Did you ever meet with him?

Mr. CARMEN. I wouldn't know him if he walked in the room. If I met him, I don't recall it. I have been active in politics for a number of years, so it's possible I have been in the same room with him, but I don't know him.

Senator EAGLETON. And never discussed this matter with him over the phone?

Mr. CARMEN. Not at all, and yesterday, in the San Francisco Chronicle it discussed a letter from Congressman Burton. It states that the Redevelopment Corporation in San Francisco is acquiring that piece of land to put a hotel on it.

The thing that has been lost in this whole dialog is that we don't do business with anybody except the city of San Francisco. GSA's relationship on this matter has been injured by nonfacts, and in the story on Congressman Burton is a fact that there is going to be a hotel on this piece of land. There is a discussion on whether we should sell it or swap it. There is a fundamental discussion on which way is best to go.

But as far as the use of the land, the city of San Francisco is going to determine that and pretty much already has. GSA has no involvement and neither do I.

Senator EAGLETON. You didn't meet for talks with Mr. Malek? Did you meet or talk with other representatives of the Marriott Corp.?

Mr. CARMEN. We had a meeting in my office—it was part of the hearing record—with other people some time in November or October. I don't remember the date.

Senator EAGLETON. In light of your answer to the immediately preceding question, why did you bother to meet with the representatives of the Marriott Corp.?

Mr. CARMEN. As I told you, Senator, we have a constituency. We meet with anybody who asks to meet. At that time, I took the precaution of having my ethics officer and other people present in the room.

Senator EAGLETON. You had representatives of your ethics office attend the meeting with these Marriott representatives, right?

Mr. CARMEN. That's correct, and it is my custom, by the way. When anyone comes in that might be pursuing a cause of their own, I like to have someone else there in the room.

Senator EAGLETON. Your testimony before the House subcommittee, in essence, made these three points with respect to this San Francisco land slot: One, that your decision had been made before the Marriott people ever wrote to you, much less even met with you. Is that the case?

Mr. CARMEN. That's correct. When you say the decision, that has become a point, for instance, in some of these reports. I think my testimony was that the decision had been made to sell as the best of the two ways to go, providing the laws and everything else fell in with such a decision. So while it is correct to say I made the decision that we ought to do what the mayor of San Francisco asked us to do, at that point, we had to find out whether we could do it.

Senator EAGLETON. Second, in your House testimony, you made the point that you did not consider Marriott to be a relevant party to the negotiations over this matter since it was basically a matter between GSA and the city of San Francisco. That is correct; is it not?

Mr. CARMEN. That is correct.

Senator EAGLETON. And third, that one of your frustrations as Administrator is the extent to which meetings and public appearances occupy valuable time; you stated words to that effect before the House.

Mr. CARMEN. Well, I don't remember that.

Senator EAGLETON. Well, in light of all those three, why did you decide to spend your time and the time of several of your subordinates in meeting with the Marriott people over something on which you had already made up your mind and over which, from your point of view, they had no involvement?

Mr. CARMEN. Part of the agency's charge, I think, and part of our client, customer, and vendor relationships has really been that we do spend a great deal of time, whether we like to or not, with what our constituents—the people who want to be involved with GSA. So there is no reason why I would not meet with somebody who requested a meeting. I will say that I wish I hadn't, and I will say that I will be more careful in the future.

Senator EAGLETON. I have another area I would like to go into, Mr. Chairman, but I will yield back to you.

Senator COHEN. Go ahead. I was going to follow up with one line.

Senator EAGLETON. Go ahead.

Senator COHEN. Mr. Carmen, you indicated that you really have no need for that property in San Francisco, but does GSA have a Federal building in San Francisco, or do you operate leased space?

Mr. CARMEN. Largely leased space. When I say we don't need a Federal building, that is a recognition of reality, not necessarily that we wouldn't rather be in a Federal building. That is why I spoke about the 10 years of planning for such a building and another 10 years before it might begin. The House is working on it now. I think the House Subcommittee on Buildings and Grounds has just authorized that building.

The realistic part is that when we receive appropriations and authorization, we will move forward. I don't know that "not having need is the correct phrase," but "having the ability to build it and to finance it" might be more accurate.

Senator COHEN. It is my understanding that one of the recommendations of the lower level staff who were dealing with the San Francisco property had recommended perhaps tearing down the buildings currently on the property and building a Federal building so that you could house GSA. That might even be better in the long run, financially.

Mr. CARMEN. The Public Buildings Commissioner is here and could respond, but the land which is suggested that we swap for now, I don't think the people that originally might have recommended swapping land would consider that piece of land suitable.

Senator COHEN. No; I said that one of the recommendations had been to take down the buildings that are currently on the existing property and construct a Federal building on that land so GSA would have a home that is not leased.

Mr. CARMEN. That appears to run so counter to what the city of San Francisco really wants.

Senator COHEN. San Francisco wants to get more property so they can tax it, obviously.

Mr. CARMEN. Well, yes, and frankly, as long as they are not asking for something for nothing from the Federal Government, as long as they are willing to pay whatever that fair price is, I think that is a proper thing for us to do.

Senator COHEN. OK, and I don't disagree with that, except you have to make an evaluation as to what it is costing you to operate in San Francisco. In other words, it might benefit the city of San Francisco to have property with which they can enter into a long-term lease with Marriott, collect the taxes, and enhance their revenues, but the question becomes one of balances as well. What are the long-term costs to the U.S. taxpayer for the GSA to be operating on leased property?

Mr. CARMEN. If you are asking what my business judgment would be in that situation, I would say that we have no business being in an area which commands $35 a square foot, such as San

Francisco, and that we ought to make every effort to move to lower cost areas.

Senator COHEN. Have you seen any area in San Francisco that is attractive to you?

Mr. CARMEN. We were looking outside the city at a cost of about $20 a square foot.

Senator COHEN. Is there a stadium for sale out there? [Laughter.]

Let's discuss another issue. During testimony before the House Government Operations Committee last year, the GSA Director for Acquisition Policy said that the GSA has yet to implement OMB Circular A-109 which, in essence, requires you to award contracts on a competitive basis. I mention this because competition in contracting is something that is near and dear to my heart. I have been working with Chairman Roth, Senator Levin, Senator Pryor, and others on this committee for some time trying to increase the use of competitive contracting. We were successful, yesterday, as a matter of fact, in reporting out a bill of the Governmental Affairs Committee. S. 2127 is a rather comprehensive bill dealing with competition in Federal contracting.

While it is stated as a goal and a policy on the part of the United States to encourage competitive contracting, the facts reveal something quite to the contrary—over one-half of all Federal contract dollars are awarded on a noncompetitive, or, indeed, sole-source basis. That includes the Defense Department, which accounts for most of the contracts awarded on a sole-source basis.

What has been done specifically within GSA to comply with this OMB circular to encourage more competition in contracting?

Mr. CARMEN. I would like to separate A-109 from the issue of more competition, because we think we have really moved out on that issue, and we think we do a pretty good job. Those statistics you cited probably don't reflect GSA's activities but the Federal Government's overall. A-109, as I understand it, addresses more than competition. It concerns major systems and tells us to look at the concept alternatives as well as at the end product, and that we should compare concepts.

GSA has difficulty adapting to that circular or having it useful for the kinds of things that we do, particularly in the public building area. For the most part, GSA procures commercially available products rather than sophisticated systems.

Senator COHEN. How about furniture?

Mr. CARMEN. I would have to ask Mr. Mitchell, our Commissioner, to speak on that subject, but I'm not sure that A-109 is appropriate for that purpose. Les, would you comment?

Senator COHEN. Before he comes up, let me get more specific. One of the ways in which many agencies reduce or eliminate competition in contracting is by having Government specifications which are so stringent that for all practical purposes only a few—or in some cases, only one—contractors can meet the Government's needs. This has historically been a problem in the procurement for desks. Currently, in the case of traditional steel desks, the specifications date back to 1950. It is my understanding that only one company has retained the tooling to meet GSA's needs. Since the moritorium was lifted on the procurement of furniture last year, this company has been awarded a multimillion-dollar contract for traditional steel desks. Because of the overly detailed design specification, GSA received only two bids: One was considered to be unresponsive, and the other was from the company that could meet the specifications.

I am wondering, why are the specifications so specific for metal desks that you, in effect, can buy from only one company?

Mr. MITCHELL. Senator, in years past——

Senator EAGLETON. Could we have your name and title, please?

Mr. MITCHELL. Les Mitchell. I am Assistant Administrator, Office of Personal Property of GSA.

It is true that in years past we had a Federal specification that was very detailed. In the last 10 months, because of the condition of our support of the military for furniture, we did make the decision to go out and solicit bids with the use of that specification. We did receive four offers, and, ultimately, of course, that company did win out in the award process.

We did follow the competitive negotiating procedure.

Since that time, we have developed a commercial item description for that type of furniture, so we no longer have Federal specifications for that particular item. In fact, I might add that the solicitation that is currently on the street and the resulting number of bids that we are receiving has increased competition to a very high degree.

We are pleased with that.

Senator COHEN. Thank you, very much.

I am going to yield to Senator Eagleton, then to Senator Pryor, with the admonition that we have to be out of this room by 12 o'clock.

Mr. CARMEN. Just one thing on that particular question: The Federal supply system in the personal property area is one of our really successful operations. When Les took over that department, it had over 400,000 back orders; that was just 1 year ago. They are down to less than 65,000. About 80 to 90 percent of our requirements in the furniture area are for the defense buildup and require some urgency.

Some of our initial moves in the procurement area were to fill the back orders.

Senator COHEN. Hopefully, that buildup is not for metal desks over in the Pentagon. We are trying to eliminate those.

Mr. CARMEN. That will require another hearing.

Senator COHEN. Senator Eagleton?

Senator EAGLETON. Thank you, Mr. Chairman.

I would like to now go into this personnel transfer. I will yield to Senator Pryor, who has some questions on Art Metal, also.

Senator PRYOR. Thank you.

The first question I would like to ask is pretty blunt:

Why was Art Metal not debarred?

Mr. CARMEN. Senator, I have my General Counsel here, and my IG who, by the way, participated in that solicitation. There was a $4 million savings in that situation.

My understanding is that we are under court order that tells us—and I think probably rightfully, because we don't have Napoleonic justice in this country—to treat them as any other company.

Is that a correct statement?

Senator Pryor. That is not the way they have treated the Government or the taxpayer.

Why do we have to treat them that way?

Mr. Carmen. You know, one of the things that I have been very careful about in dealing with the entire GSA in the outside world is that I think we all have an obligation to protect civil rights and the democratic system that we live under.

Certainly, it does the Administrator and this administration no good to continue with a practice that may not have been a good practice in the past.

By the same token, a court order is a court order.

Senator Pryor. Is it true that we have reduced the number of Federal employees since President Reagan has taken office?

Mr. Carmen. I can speak for GSA.

Senator Pryor. And that answer is?

Mr. Carmen. 7,000 people. In fact, we brought a chart you might like to see.

Senator Pryor. Generally speaking, I think the President has reduced the number of employees, Government-wide. I don't know the specific numbers.

We found in 1979, warehouse after warehouse full of furniture, steel desks, never opened, still in crates, et cetera.

Why is it, if we are reducing the number of employees that we had just 3 years ago, and we already had huge reservoirs of supplies, desks, and furniture; why is it now we are buying more new furniture? Is it not because——

Mr. Carmen. In our case, for instance, we had in the neighborhood of $60 million of furniture inventory on hand when I took over. That has dropped to the $2 million level. So you can see that we are not accumulating inventory.

We have done a remarkable job of turnover. As a matter of fact, Mr. Mitchell has done an extraordinary job in reducing inventory from $60 million to $2 million.

Again, I would tell you that 90 percent of our purchasers are for direct shipments, and 80 percent go to DOD.

There is a buildup over there, so that when we talk about reductions, it is in the civilian sector and in our own GSA sector. I know that GSA has bought very little furniture.

Senator Pryor. $26 million worth of office furniture in a recent contract with one firm, I might add, is an enormous contract for a lot of furniture.

Generally, how much furniture is purchased under that contract, desks, chairs, et cetera?

Senator Cohen. I think they are planning on putting it in the Hart Building, Senator. [Laughter.]

Senator Pryor. That would be a switch. To be honest with you, I don't think we deserve any furniture in the Hart Building. [Laughter.] We ought to sit on the floor. [Laughter.]

Mr. Mitchell. Our total acquisition program for furniture over the last 10 months to 1 year, has been approximately $98 million, and a good 80 to 90 percent of that is for the military renovation and buildup program.

In fact, I might add to Mr. Carmen's remarks that the civilian agencies have actually decreased 16 percent in that connection. In the Washington area for the Federal community, we have established a furniture rehabilitation center in our Franconia, Va., facility.

Since we opened that facility in April, we have moved through better than 500,000 dollars' worth of rehabilitated, used furniture collected from the agencies in Washington.

The Government savings with that type of operation has already given us at least $300,000.

In response to your earlier question, we are doing something about making use of excess furniture.

Senator PRYOR. I think a lot of Art Metal's furniture probably had to be rehabilitated. [Laughter.]

I am very serious. We have been battling this matter for a long time. It makes the Congress look terrible, as a matter of fact, that we would allow this Government to continue doing business with a firm like Art Metal, that, frankly, has defrauded this Government on many occasions and has not lived up to its part of the contractural agreement.

It is awfully hard to go back to the taxpayers and say, "We are still doing business with a firm like this."

Mr. MITCHELL. One of the things that we have done to strengthen up the procurement process in the past 10 months is to use the competitive negotiation procedure, and, of course, go more to commercial items descriptions, thus defining the general performance requirements that we are looking for from the industry.

We established five key items in that process: One was, of course, we would use the competitive negotiated procedure to give us more latitude in dealing with the types of offers, to make amendments to correct any deficiencies identified by various suppliers to allow them to compete on our solicitations; two, we are requiring preproduction samples to certify that the bidders are responsive, that they are delivering a quality product; once the award is made, we are doing a preproduction inspection and then inspecting from a production run with a witness at the plant to insure that the quality is built into the product before it is accepted; and, four, of course, we have warranties for better than 1 year for those furniture items that are accepted.

I might add that up to $22 million that Art Metal has under contract, all of that is under warranty for better than 1 year.

Senator COHEN. Senator Pryor, would you yield for a moment?

Senator PRYOR. Certainly.

Senator COHEN. You indicated that past performance of Art Metal was somewhat deficient, to say the least. I just wanted to call your attention to this preaward audit conducted by the IG.

I have the audit here and it says that "Past performance has been satisfactory." You might want to take a look at that.

Senator PRYOR. I don't want to take a look at that; I want to take a look at the IG that signed off on it. [Laughter.]

Senator COHEN. I think it is worth exploring, because there has been considerable discussion about the past performance of Art Metal. Here we have the IG who comes up with a report that says it has been satisfactory.

Mr. CARMEN. Before the IG gets into that, I would like to tell you a little story of my own.

When I first arrived at GSA, Senator Pryor, this issue came up, naturally, under the name of the vendor we are talking about, and I asked, "Why are we still doing business with a vendor that has this kind of story behind it?"

I think it was my General Counsel—I don't recall exactly who I brought in. I said, "Let's see the information on it."

I think it was like this high or higher. I said, "Well, why are we still doing business with them?" And they said, "Well, we don't have any reason not to." I guess information this high is not sufficient not to do business with them.

One of the things I found lacking in the procurement business is the fact that most private sector companies have what they call reliable vendors or people that they have found from past experience to be dependable and they continue to do business with them. They have a way of systemizing their competitive process so that if, even on low bid, you think it is an unsatisfactory vendor—someone you don't care to do business with, you have a way of culling out that person.

There is no such system in Government, and maybe there should be, but there has to be a reconciliation of the way the competitive process now works which is that we are not selective, in any way, except by low bid.

Senator COHEN. The difference is you had a 2-year moratorium on the purchase of furniture. It seems to me that during that 2-year moratorium, you could have come up with design specifications that were less restrictive. In other words, it would seem that you could have come up with some flexible design specificiations which would allow for greater competition.

As you may know Senator Levin and I have tried to pass legislation dealing with debarment and suspension.

It is very unusual for any agency to ever debar a contractor from doing business with the Government for a period of, let's say, 3 years.

What we found is that even when those extraordinary steps to debar or suspend are taken, the contractor is able to walk across the street to the next agency and is fully free to do business.

We are trying to pass a bill which would preclude contractors which are barred from walking across the street to do business with other agencies.

Let me tell you how my phone has been ringing from contractors who think this legislation is unfair. Some contractors have been defrauding the Government of millions of dollars over the years and they want to continue to do that with little restriction or threat of debarment or suspension.

The issue that Senator Pryor is raising, I think, is a very valid one. I understand your position here when you say "all we have is a stack of papers but we have no formal action." You would probably be held liable if you took any action.

Mr. CARMEN. In the last 15 months, as an example, we have had back orders for this type of furniture. We have met that problem, and now I understand we are going to the commercial items, and the next bidding process will be open to the vendors, as you suggest. So we have made that accommodation.

The other thing you will be interested in is that we have actively debarred and suspended people. We have been aggressive over the last 15 months; I think we have been very aggressive in that area.

Senator **PRYOR**. If I may, how many have you debarred?

Mr. **BERES**. 142 debarments and suspensions, sir.

Mr. **CARMEN**. 142.

Senator **PRYOR**. What do you have to do to debar? I won't go into that, again here. [Laughter.]

Did the Inspector General, GSA, read any of the testimony given before Senator Chiles and Senator Danforth at hearings relative to debarring when they signed off and said, "Past performance has been satisfactory?"

Was there a reading of that transcript?

Mr. **SICKON**. That was in 1981?

Senator **PRYOR**. 1979 and 1980, along in there.

Mr. **SICKON**. In 1980. I believe so, yes.

I have read hearings covering that topic, and the contract, but let me say, Senator, that there was a fire in that company. They were out of business, and when they reestablished their business, they came in to bid. I would like to know the date of the report that was referred to.

Senator **COHEN**. June 1982.

Mr. **SICKON**. June 1982.

We were asked, I believe, in this case, by the General Counsel of the Agency to make a review to see if they could produce the items that they were bidding on.

Our people went out and found that they did have the capability to produce the items.

There was not enough evidence to be able to say they couldn't bid.

We knew of the prior history of that company, of the legal problems and of the court order. They were certainly constraining features.

I think as far as the court order and what, exactly, the GSA could do in this area, General Counsel is better qualified to talk to that than I am.

Senator **PRYOR**. Where is the General Counsel? I don't want to waste the whole hearing on this because this is such an old subject, but in my mind, it makes a mockery of the debarrment procedure and makes a fool out of all of us, but go ahead.

Mr. **CARMEN**. We are not here to defend or attack any member. We are here to suggest that the problem that you have here is congressional and not GSA.

Ms. **LATIMER**. GSA is under a continuing court order to treat Art Metal just like any other company until such time as there is evidence to either debar them or suspend them.

Up until this time, the report that the IG was referring to was requested to determine the responsibility of the company before an award could be made after it was determined that they were the low bidders.

Senator **PRYOR**. Excuse me. I don't know your name.

Ms. **LATIMER**. I am sorry. I am Allie Latimer.

Senator **PRYOR**. Norma Carey or someone signed off on this.

Ms. **LATIMER**. That would have been someone in the——

Senator **Pryor**. It says here "Past performance has been satisfactory."

Ms. **Latimer**. That is the role of the contracting officer. The contracting officer is the one that is responsible for making the determination of responsiveness and responsibility. So that would have been the contracting officer for that particular contract.

Senator **Pryor**. But that person is an employee of GSA, is she not?

Ms. **Latimer**. Yes.

Senator **Pryor**. Can anyone make a statement like that? How can anyone make a statement like that? "The past performance has been satisfactory." Anyone with any acquaintance with the past history of Art Metal can see——

Ms. **Latimer**. I assume that they were looking at the specific items, the specifications that went out and whether they had satisfied the requirements of that solicitation and the complaints and everything that is associated with that particular contract, so they make a determination before awarding as to whether or not that company is responsible and responsive. That is a requirement before an award can be made.

Senator **Pryor**. Frankly, that sounds good. It is a lot of gobbledygook to me. Apparently the Federal Supply Service and not the IG has been responsible for making this statement. Has the IG been involved in any way? Are we trying to question what the court has ruled? Has there been any recent activity in the court litigation or the mandate the court allegedly has us under, allegedly has mandated to you?

Ms. **Latimer**. No. The jurisdiction that the court has is a continuing one. We have been in court with them about three or four times. They have taken us to court and the court has held that until such time as we have sufficient information to debar them, then we have to treat them just like any other bidder.

Senator **Pryor**. I think that's all, Mr. Chairman.

Senator **Cohen**. Before yielding to Senator Levin, I just want to point out something from the court decision. It may well be that the contracting officer had a chilling factor instilled by the court order which said, in fact:

> As noted above, GSA has adduced no evidence of fraud, corruption or contractual deficiencies on the part of Art Metal, and as late as September 20, 1978, GSA's Administrator testified that he knew of no such evidence.

Then the court order went on to say that:

> This court does not know whether in fact Art Metal has been involved in any improper activities and apparently neither does GSA. If and when GSA has a basis for charges against Art Metal, it may by all means deny further contracts to that company, cancel existing contracts, and take any other appropriate measures, but not until then.

So what the court in fact was saying: You haven't shown any evidence to sufficiently constitute fraud or abuse and that until such time as you do, you cannot terminate existing contracts or refuse to do business with Art Metal.

This is one of the reasons why I suggested that perhaps during that 2-year moritorium, you might very well have changed the specifications so that you would have more competition and so Art Metal would not have a lock-on or monopoly on office furniture.

Mr. MITCHELL. We have changed those specifications to commercial item descriptions.

Senator COHEN. But after they got another award.

Mr. MITCHELL. Understood.

Senator COHEN. Senator Eagleton has a number of questions.

Senator Levin? Do you want to proceed now? The only restrictions are we have the room until noon.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you.

Mr. Carmen, just to keep you on your toes here, I am going to change the subject to the national strategic stockpile that GSA is charged with managing. We asked the GAO to take a look at this stockpile a few months ago, and they gave us some pretty disturbing news. That is, the President, in his 1983 budget, proposes a fund down, fund balance which would exceed the congressional mandated limitation by about a quarter of a billion dollars.

Now, one of the protections which we put in to preserve the strategic stockpile was that there would not be a transaction fund balance of more than $500 million. We did this is because we wanted the stuff that isn't needed in the stockpile to be sold, and we want the needed materials to be bought. The materials are sold, and the transaction fund balance exceeds $500 million. But because the materials that are needed for strategic reasons are not bought, we damage our national security. We put that in the law in order not to have a fund balance of more than $500 million, and GSA is responsible for making sure that the stockpile is balanced properly.

Your budget requests of OMB have been rejected by the OMB—or those budget requests for purchases for the stockpile. You asked for over $900 million in 1982. OMB gave you $120 million. Congress cut that.

In 1983 you asked for $860 million. OMB gave you $120 million. My question is, Do you agree with the GAO's conclusion that the law will be violated if we continue on the course that we are on?

Mr. CARMEN. I would be no judge of that, Senator.

I have Commissioner Jones with me who deals in that area. I would simply say that I suppose as a citizen, that the appropriation process is such that Congress has the ability to appropriate whatever they want spent. We at GSA will simply buy, manage, sell and act under the appropriation and authorization process; so that we are just functioning under law.

Now, Mr. Jones has some things to add to that.

Mr. JONES. Senator, over the past 5-year period, the executive branch has requested in excess of $755 million be appropriated or authorized out of the transaction fund.

Currently, there is a $120 million request. Up until this time, there has been appropriated $157 million out of the $755 million requested. But I think it is even more important, Senator, to look at what exists. The transaction fund currently has a balance of somewhere slightly above $190 million. Of that $190 million, $37 million is currently authorized, and assuming that the additional $120 million that is requested is further authorized for this coming fiscal year, that will mean that I have obligated all but something under $40 million to spend out of what exists in the transaction fund. Those are the real numbers.

Senator LEVIN. Do you agree with the GAO conclusion that, if implemented, the 5-year plan of the administration "will result in a $500 million limitation on the transaction fund balance being exceeded?" Do you agree with the GAO report?

Mr. JONES. Quite frankly, Senator, I do not think that we are ever going to approach that conclusion.

Senator LEVIN. You disagree with it? Is that your words?

Mr. JONES. I guess it's fair to say I disagree with it.

Senator LEVIN. Does the reason you have for disagreeing with it have to do with the sale of silver or lack thereof?

Mr. JONES. Not only that, Senator. I have, basically, four commodities in substantial quantities which largely go to fund the transaction fund. Tin is the largest. I have perhaps $3.7 million of excess commodities at current market value. In excess of $2 million of that is tin. Another million dollars is silver.

The other two remaining commodities, of which I have substantial amounts, are diamonds and tungsten. The tin market is extremely volatile. I am under a restriction against any sales of silver.

Senator LEVIN. Would you repeat that?

Mr. JONES. I am under a restriction against selling any silver.

Senator LEVIN. That is a congressionally mandated restriction, isn't it?

Mr. JONES. Yes, sir, it is.

Senator LEVIN. Isn't is also congressionally mandated that the President was supposed to issue a report relative to that?

Mr. JONES. I don't know the date. I know there was a study that was to be completed. I understand the completion date of the report was not met, and it has been pushed ahead. I don't know when it is going to be completed. I am not part of that process.

Senator LEVIN. GSA manages the fund, manages a stockpile, and there is a congressional prohibition against the sale of silver. You folks want to sell it, as I understand it. Everyone thinks it ought to be sold. We need it for strategic purposes. Congress comes along and says that none of this surplus stuff will be sold until a report is issued by the President, no later than July 1, 1982, which determines that the silver authorized for disposal exceeds the requirements of the stockpile fund.

You folks manage the stockpile. There was a July 1, 1982, mandate in there. I want to know why it hasn't been met.

Mr. JONES. I'm afraid, Senator, that I'm not much in a position to answer that question.

Senator LEVIN. I think as manager of the transaction fund, you ought to inquire as to why it hasn't been met. Who is making the report?

Mr. JONES. As I understand it, the chairman of the committee studying the question is the Secretary of the Interior.

Senator LEVIN. Secretary of the Interior? Will you ask the Secretary of the Interior why the report hasn't been finished so you can get the needless stuff out of this stockpile?

Mr. JONES. The matter is not something, obviously, Senator, that is controlled out of my office. I am not even part of the process of making this study, so I can't comment.

Senator LEVIN. We have got a law on the books that says that there may be no more than $500 million in transaction fund balance. The reason we are not even going to get to that point will be because we are not selling silver. That at least is one of the reasons. The reason why we are not selling silver is because there is another law. And by the way, the GAO says the law which governs the transaction fund will be violated if the budget is implemented as proposed by the President. Why isn't it going to be implemented? Because we are not selling silver. Why aren't we selling silver? Because the sale has been prohibited pending the study by the President, due not later than July 1, 1982.

Why isn't the study of the President in on July 1, 1982? The managers of the fund don't know? Have you asked the Secretary of the Interior why that report is not ready? Does anyone care that we have billions of dollars of needed materials that we are not trying to get from our strategic fund? The President of the United States came to office saying "We will increase the stockpile," that is, that he is going to do something about its condition, but he hasn't, nor I might add, has the Congress.

One of the reasons we haven't done it is because we are stuck with a whole lot of silver we don't want. We have mandated we want a report by July 1, 1982, by the President, and the managers of the stockpile haven't asked?

Mr. CARMEN. Senator, I think the issue really revolves around the fact that when the restrictions were put on, silver was going to sell for $12 an ounce. I think that was the basis of the recovery from the sale of silver. Silver dropped from $12 to somewhere around $6 or $5 or less at one point in the summer, and the congressional interests at that point said that the sale of silver jeopardized the American industry and American workers, and called the stock collector for an opinion.

Senator LEVIN. My question, Mr. Carmen, is much more direct: Where is the July 1 report?

Mr. CARMEN. We don't have an answer for that, but I think what I am saying is that the urgency to put silver back on the market is really determined by the value of silver and that while silver is now moving in the $9 area, I believe, I'm sure that we will have the report in a timely manner to facilitate the sale of that silver when the silver is in an area that it makes sense to sell in.

Senator LEVIN. I am going to conclude, Mr. Chairman, with a request that we ask for that report from the President of the United States. Mr. Carmen will join in that request as the manager of the transaction fund. If the Congress passes a law saying that a report is due by a certain date, we would expect that report to be filed or an extention to be requested and that the manager of the stockpile will be able to tell us why it isn't in. I think that is a reasonable request.

Mr. CARMEN. I think you are right.

Senator LEVIN. You have said repeatedly this morning you think the Government should sell what it doesn't need and buy what it does need. We are not doing that in the stockpile.

Mr. CARMEN. That is correct.

Senator LEVIN. I know you weren't referring to the stockpile, but I think it is another good example of the same thing.

I will suspend. Thank you.

Can we expect you to join in the request before the committee so that the chairman can request that report on silver?

Mr. CARMEN. Your request is for us to try to get the report. We will try to do that. We will request it.

Senator COHEN. Let me just say to Senator Levin that the failure of the administration to supply the kind of reports required and mandated by the Congress is not unique to GSA. The administration was supposed to have a report on Indian housing back in March of this year. It still is not forthcoming. I could go down the list of the number of reports that haven't been filed notwithstanding congressional mandate. It really isn't sufficient to say that the urgency of the report will be determined by the price of the silver on the open market. That is not consistent with what the law says.

Senator Eagleton?

Senator EAGLETON. I would like to open up the question of personnel transfers.

Mr. Carmen, in April of 1982, GSA transferred 21 senior executives to other parts of the country. That is correct, is it not?

Mr. CARMEN. Yes.

Senator EAGLETON. Do you know of any other agency of Government that has transferred so many senior executives in one fell swoop in the past 2 years?

Mr. CARMEN. I wouldn't know whether they have or not, Senator.

Senator EAGLETON. We know of none.

What was the reason for this wholesale transfer of senior executives?

Mr. CARMEN. I would like my deputy, Ray Kline, to perhaps answer that question in the global sense of our reorganization.

Ray, will you answer that?

Senator EAGLETON. How long is this slide show going to be?

Mr. CARMEN. About 10 minutes, but we will make it as brief as you want.

Senator EAGLETON. I have three or four areas I want to go into. The chairman says we have got to be out of here by 12. Could you answer my question without use of the slide show?

Could you tell me why 21 senior executives were transferred, the largest number of transfers of any department of Government that we know of during this administration?

Mr. CARMEN. We would like to give you a constructive answer that tells you what we have done. We can reduce it in time, but we think it is pertinent because it deals with the reorganization.

If it is permissible, we will cut it as short as we can.

Senator EAGLETON. Who is coming at 12 o'clock, Mr. Chairman?

Senator COHEN. We have another committee, apparently, coming. I don't know which committee is coming. Maybe we can extend it.

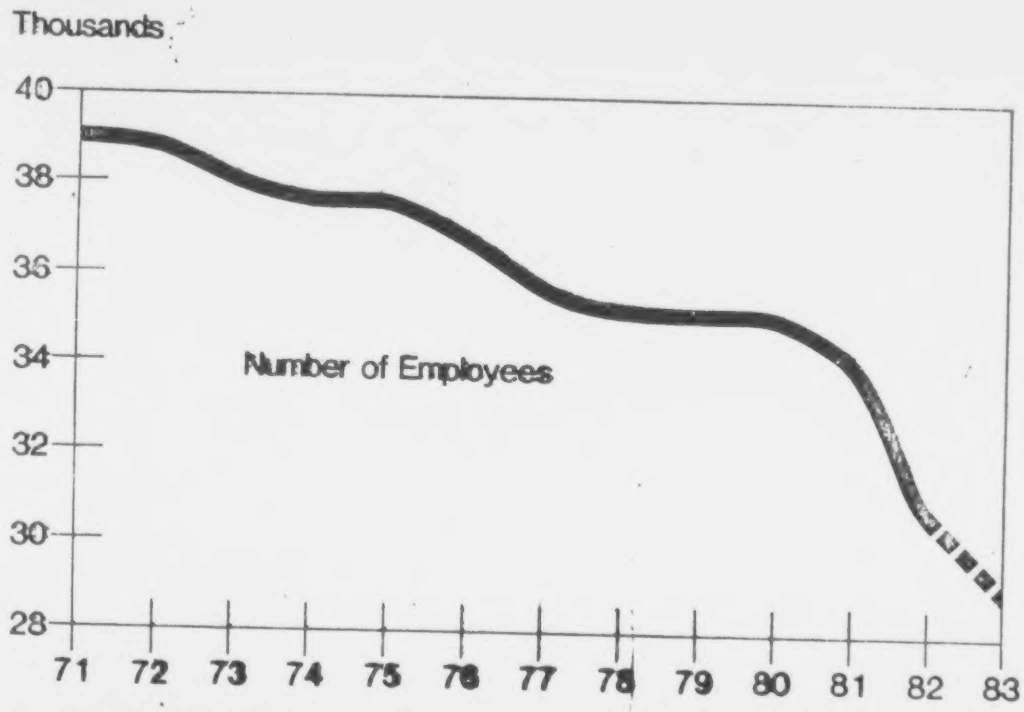
Senator EAGLETON. We will see if we can delay the other committee, because it is going to take 10 minutes to answer this question; I have more than one.

Mr. CARMEN. We will take less.

[The charts referred to follow:]

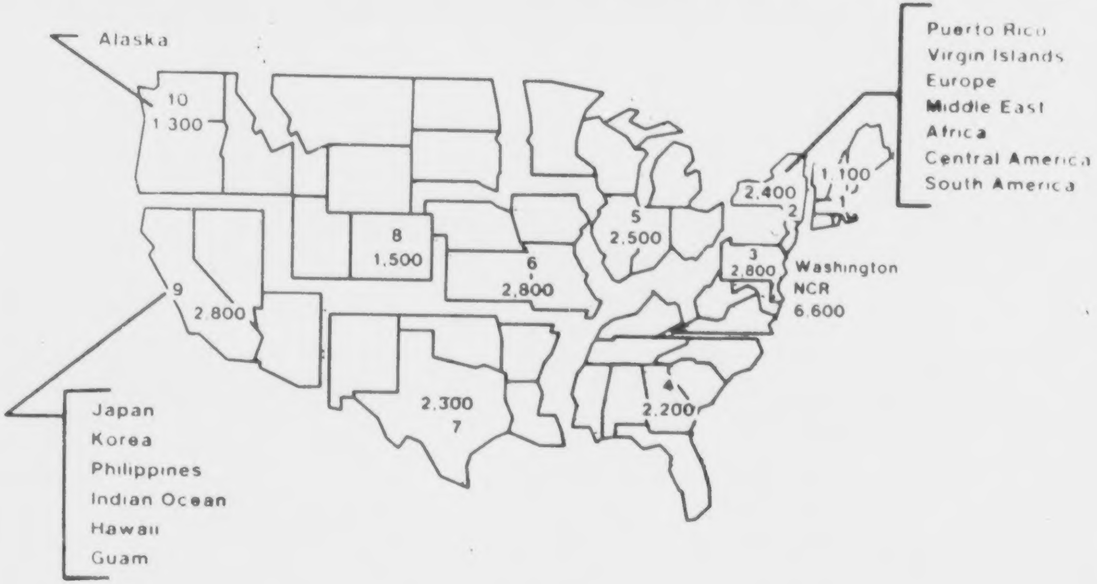
General Services Administration

PERSONNEL



General Services Administration

PERSONNEL


Alaska
10
1 300
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Washington
NCR
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2
1,100
1
Puerto Rico
Virgin Islands
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Middle East
Africa
Central America
South America
Japan
Korea
Philippines
Indian Ocean
Hawaii
Guam

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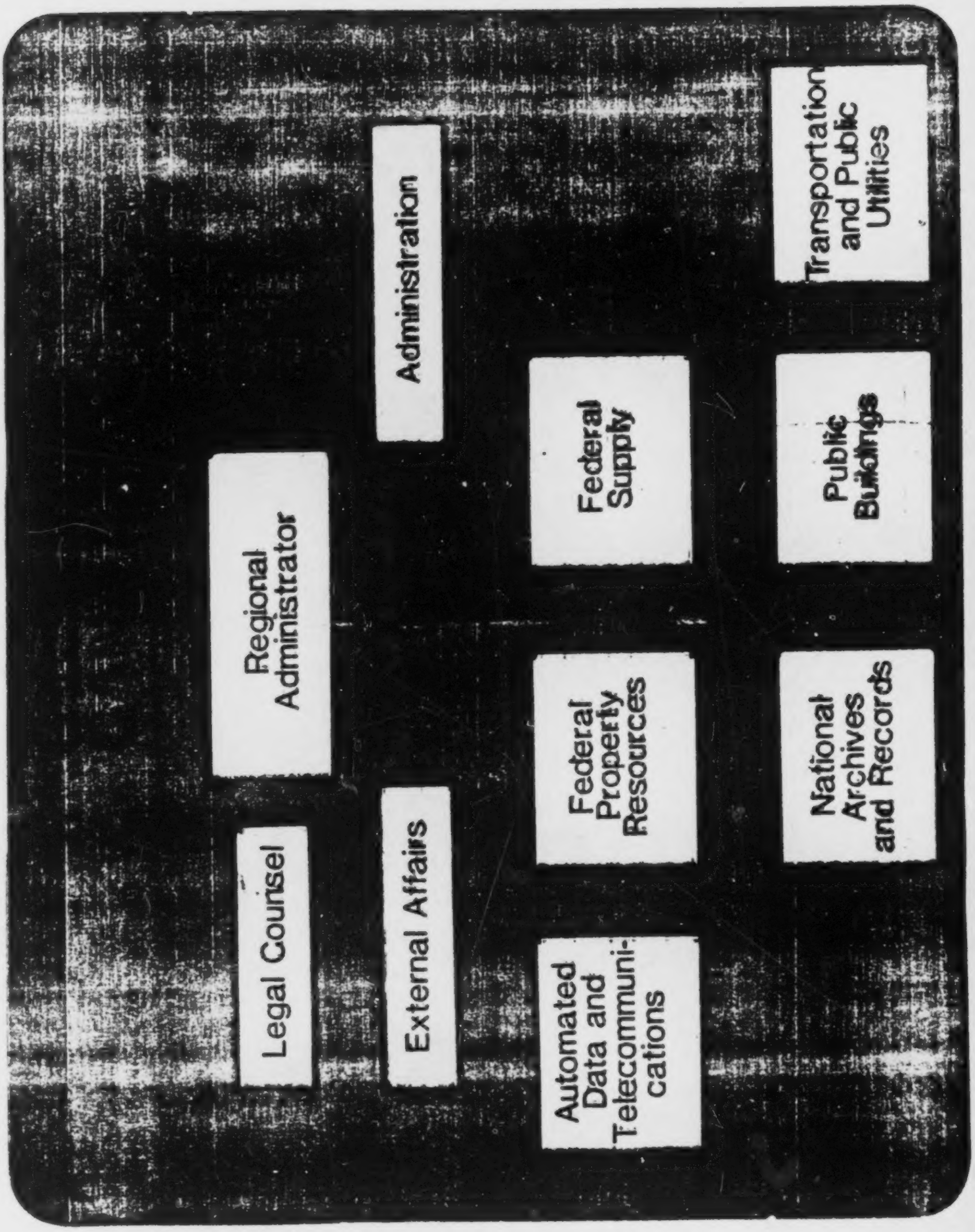
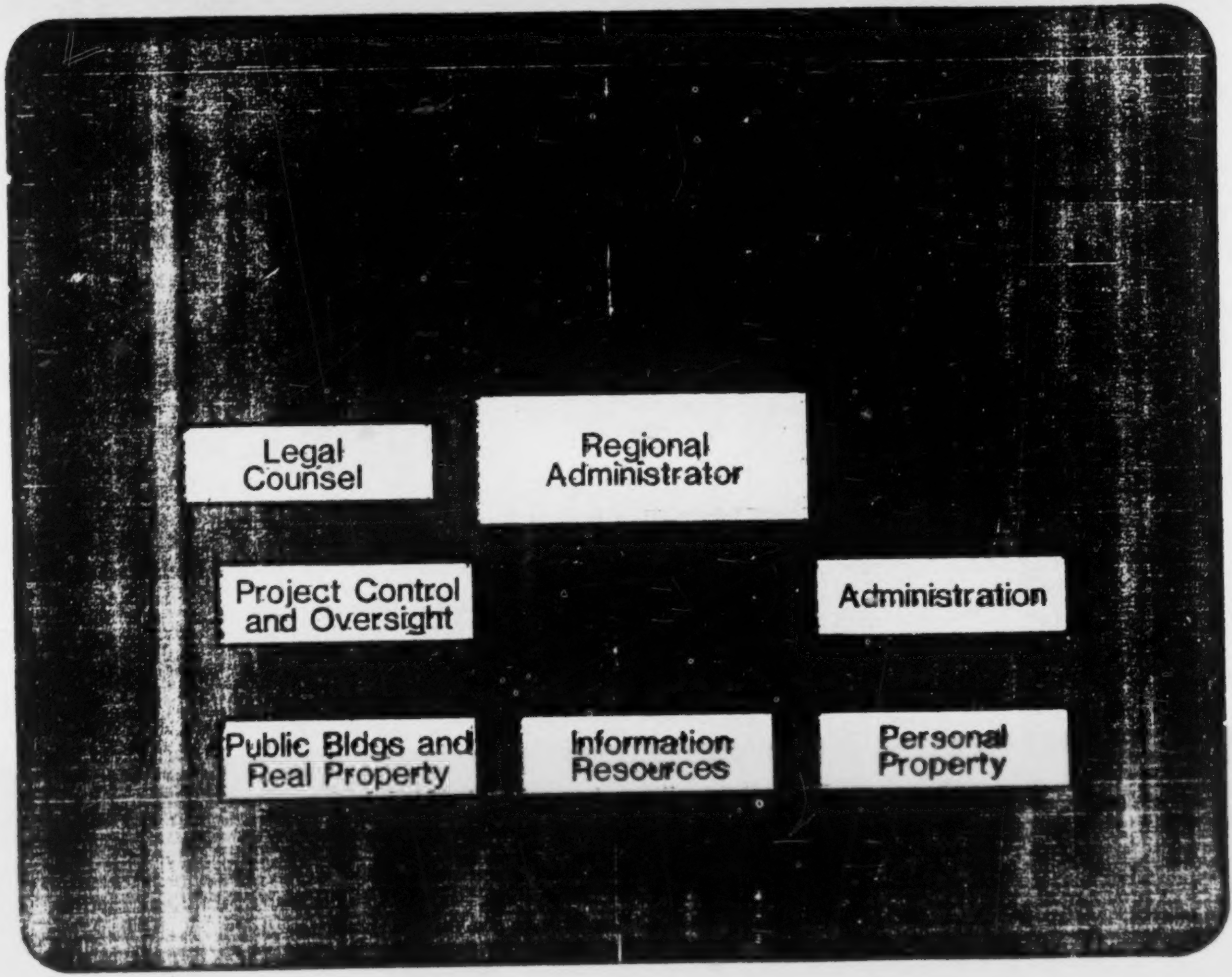

Legal Counsel
Regional Administrator
External Affairs
Administration
Automated Data and Telecommunications
Federal Property Resources
Federal Supply
National Archives and Records
Public Buildings
Transportation and Public Utilities



Regional Administrator

Legal Counsel

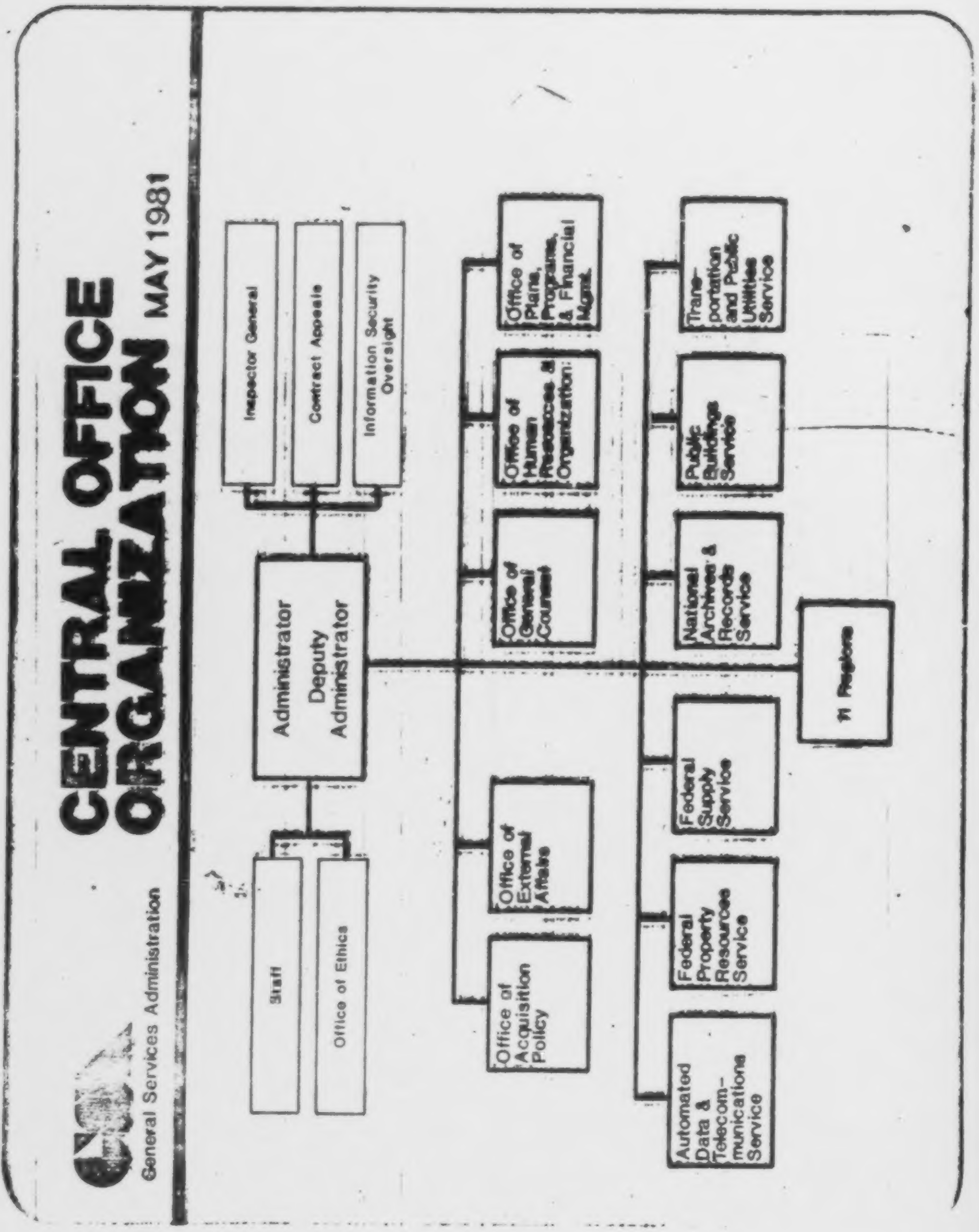
Project Control and Oversight

Administration

Public Bldgs and Real Property

Information Resources

Personal Property


General Services Administration
CENTRAL OFFICE ORGANIZATION MAY 1981
Staff
Office of Ethics
Administrator
Deputy Administrator
Inspector General
Contract Appeals
Information Security Oversight
Office of Acquisition Policy
Office of External Affairs
Office of General Counsel
Office of Human Resources & Organization
Office of Plans, Programs, & Financial Mgmt.
Automated Data & Telecommunications Service
Federal Property Resources Service
Federal Supply Service
National Archives & Records Service
Public Buildings Service
Transportation and Public Utilities Service
11 Regions

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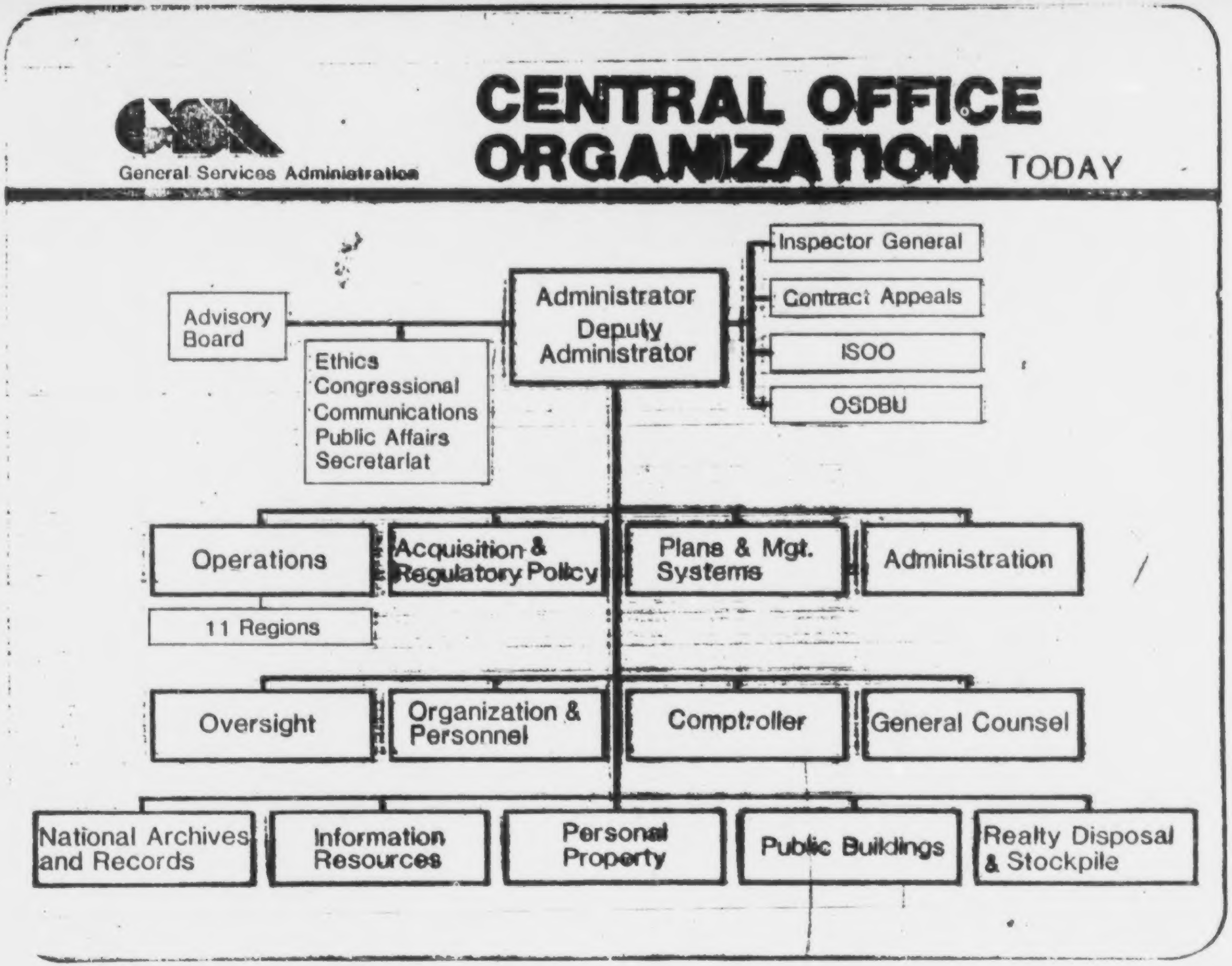

General Services Administration

CENTRAL OFFICE ORGANIZATION TODAY

Advisory Board

Ethics
Congressional
Communications
Public Affairs
Secretariat

Administrator
Deputy Administrator

Inspector General

Contract Appeals

ISOO

OSDBU

Operations

11 Regions

Acquisition & Regulatory Policy

Plans & Mgt. Systems

Administration

Oversight

Organization & Personnel

Comptroller

General Counsel

National Archives and Records

Information Resources

Personal Property

Public Buildings

Realty Disposal & Stockpile

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Mr. KLINE. We are located in all the standard regions of the country with a regional office in each place. You know the extent of our activities reaches from telecommunications to worldwide supply systems.

One of the charges of the Administrator was to see if there isn't a more efficient and effective way of doing this job as charged.

We took a look at the regional structure. This was at the time that Mr. Carmen came in as Administrator. Generally, this is the way the regions were structured in terms of program areas. There were up to six of them. To tighten up the overhead in the regions, make them more effective, we made the following changes. We reduced the number of program elements here through consolidation.

In taking this kind of step, we have brought things together, strengthened and broadened each of these jobs, and then, at the same time, we set up a strong project control and oversight function in each of the regions.

This is standard for all 11 regions. Down below this level, we have done some zonalization in areas like contract management, and we have also consolidated contracting to bring it under management control.

At the time of reorganization, we had 25 members of the Senior Executive Service located in the field. The other 97 positions were in the headquarters.

To bring this about, we needed to strengthen, within the control total for the agency, the kind of people who would populate these jobs.

To do that, we effected a transfer of senior executives. In the headquarters, when Mr. Carmen came in, this was the general structure.

You will notice that we have 6 primary program elements here; 11 regions reporting directly into the Administrator. What we have done since Mr. Carmen came is the following:

We have done, again, some consolidation of program elements here by bringing line functions together. At the same time, we brought in someone to run operations, having 11 regions reporting in here; acquisition and regulatory policy is strengthened here for FAR, Federal acquisition regulation purposes, and regulatory review. We have set up a strong oversight office.

Having done this, the most recent of these changes was announced. We reduced the number of senior executive positions in the central office. The people in these jobs were assigned to those regional jobs that I pointed out previously.

The bottom line is that there is a delegation of operational activities out to the region. The consolidation of activities called for senior executives within our controlled total, requiring reallocation from central office out to the regions, where the action is.

Senator EAGLETON. Let me ask this:

Were these reassignments into the regions, were they considered as promotions for valued, entrusted senior executives, or were they transfers of valuable employees necessary to strengthen the organization?

I take it the latter?

Mr. KLINE. Yes, sir.

Senator EAGLETON. These were not, in any sense, demotions?

Mr. **Kline**. No, sir. Not in any case.

Senator **Eagleton**. And these were valuable employees who you felt would be better utilized in the field. You said 97 were in headquarters and 35 in the field?

Mr. **Kline**. That is correct, sir.

Senator **Eagleton**. If these people were so valuable and entrusted and so much needed in the field, why were they summarily informed of their transfers by written letter so they pick up a letter, and it said, "Effective date such and such, you are hereby transferred from Washington to Kansas City or Denver" or wherever they were transferred?

If they were so valuable and so useful to the agency, why were they not given the common courtesy of being informed in a timely way of the transfer and the reasons therefor?

Mr. **Carmen**. Bond Faulwell, who heads our personnel section——

Senator **Eagleton**. We keep bouncing around.

Mr. Carmen, you are the head of the agency. This was a very significant transfer, and it was all done in the name of efficiency and reorganization and better charts and graphs.

I used to see all those when I used to go over and visit in Vietnam. General Westmoreland would tell us, "We are winning the war. We had a new organization chart." [Laughter.]

Senator **Eagleton**. Can't you answer why these 21 very valuable, very trusted, very respected employees were summarily notified by letter, as of date such and such, "Move bag and baggage to Kansas City or Denver"?

Do we have to refer a question to—is there anybody in this room that isn't with GSA? [Laughter.]

May I ask? Why do we have this army here today?

Mr. **Carmen**. We have this army to show that we have developed a real team and that we have an organization that knows how to function.

Senator **Eagleton**. All right.

Tell me, in your own words, how you handled this transfer business and why you handled it the way you did handle it?

Mr. **Carmen**. The question that was posed to me is one that suggests that the discharges were handled summonily.

Senator **Eagleton**. I didn't say discharges.

Mr. **Carmen**. Or transfers.

Senator **Eagleton**. Your most valuable employees were badly needed in the field and they got a letter saying, "Move."

Mr. **Carmen**. That is not the way it was at all. The way it was was that we started in October, or earlier. We moved ahead on our planning. We had a task force and committees set up on a reorganization structure.

We did our planning. We proceeded to move our planning through our people to get concurrences and ideas. We arrived at our decision. Our decision was made on what the restructuring would be and who would man it.

At that point the managers who were in charge of these people discussed the issue first to see who should go and who shouldn't go and what qualities we needed out in the field and what qualities were needed in the central office.

When those decisions were made, the heads of the various groups were instructed to put the process into place, which they did.

You know, I am always curious when I get a question such as yours, Senator, from a Member of Congress, about how the executive branch handles its people. We handle our people with extraordinary time, patience, and consideration compared to the rules which the Senate itself has for its own employees.

Senator EAGLETON. What time and patience did you exercise on these 21? Did you call anyone of the 21 in to speak to them?

Mr. CARMEN. Each head of the Service called them in to speak to them.

Senator EAGLETON. To tell them you are going to move and all about the letter?

Mr. CARMEN. To explain to them about the letter.

And they were supposed to be transferred. Mr. Faulwell, the head of the office, presented the letter to each individual and discussed the reasons.

Senator EAGLETON. Currently you have only 122 senior executives, if I take the numbers that the chart had. You had 25 in the field and 97 in headquarters; that is 122, and you were transferring 21 of them, of your highest echelon employees.

Why weren't they afforded a greater degree of sensitivity insofar as explaining what the rationale of their move was?

Mr. CARMEN. Senator, if you are asking me——

Senator EAGLETON. Some that we contacted, the only thing they knew about was the letter they got.

Mr. CARMEN. If you are asking me if I would do it over again, the answer to that is "yes."

Senator EAGLETON. As in the one case of Mr. Dennis Blaeuer and Pat Kendall, they are married? They were going to be transferred, and out of courtesy, you transferred one to New York and one to Philadelphia.

What about that?

Mr. CARMEN. We transferred 21 people. All of them may be married.

Senator EAGLETON. All of them are married to spouses where both partners worked for GSA?

Mr. CARMEN. I don't think the distinction is proper. What that question raises is whether we went into an analysis of what the family status was on each employee.

My understanding of that it is that is against the law.

Senator EAGLETON. How many of the 21 had spouses working contemporaneously for GSA?

Mr. CARMEN. I don't know the answer to that question.

Senator EAGLETON. The only case was Blaeuer and Kendall.

Mr. CARMEN. My guess is that most of them had spouses that were working in Washington.

Senator EAGLETON. But these two were married and both working for GSA.

Mr. CARMEN. I still fail to see the correlation.

Senator EAGLETON. Does the Department of Defense take into account, when they are transferring personnel, the marital status of the personnel if they both happen to be in the military?

Mr. CARMEN. I don't know that.

Senator EAGLETON. They do.

Senator COHEN. And they probably transfer them to different places. [Laughter.]

Senator EAGLETON. Was there any notion of being punitive at all with respect to these transfers?

Mr. CARMEN. None whatsoever.

Senator EAGLETON. Were any of them reduced in grade or status?

Mr. FAULWELL. Not at the time of the transfer.

Senator EAGLETON. What is that, sir?

Mr. FAULWELL. Not at the time of the transfer. Some had been changed in ES range before the transfer; not all, but some.

Senator EAGLETON. Why did 12 of the 21 senior executives reassigned find that their ES levels were decreased by one step several weeks before they were transferred?

Mr. FAULWELL. I would like to answer that question, Senator. GSA had an average ES rank of 4.0 compared to the Federal Government-wide average of 3.6. At the same time—at the ES 5 and 6 level—the Federal Government-wide average at the department level was 10 percent of the people were at the ES 5 and 6 level. The independent agencies had 21 percent. GSA was at 35 percent. In the conversion process in the ES, GSA had a far higher average than the rest of the Federal Government. The Office of Personnel management made recommendations to the agencies to examine and to establish certain ES ranks in terms of the value and the weight of those positions.

In terms of an ES rank, there was an adjustment. Around 34 individuals within GSA had a lowering of their ES rank at the time. As I think you said, I think 12 of those 34 were, later on, reassigned.

Senator EAGLETON. Any reasonable person would conclude, then, as they did.

Let's move on to archives.

For many years, Mr. Carmen, there has been difficulty within the GSA as far as relationships between the GSA Administrator and the National Archives are concerned.

How do you find your relationship at the present time with the National Archives?

Mr. CARMEN. Excellent.

Senator EAGLETON. We have had this reorganization in the past year, as per the charts, and the purpose of it, in essence, I gather, is to consolidate some functions in the regions.[1]

To some extent, this course represents a continuation of the course that was followed by GSA Administrator Freeman during the Carter administration. Interestingly, however, the one area that Admiral Freeman tried to decentralize faltered: the area of the Archives. His effort to decentralize the holdings of the Archives provoked a considerable amount of furor and publicity. Interestingly also, one area which was excluded from consideration of the NAPA study was the National Archives and Records Service.

Now, to my mind, what the study suggests, and what Admiral Freeman's experience suggests, is that the same reality which prompts some legislation that Senator Mathias and I are interested in: that the Archives is a separate and distinct problem, far removed from GSA in terms of function and mission.

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[1] See charts on p. 28.

Do you subscribe to that notion or view it differently?

Mr. CARMEN. Well, Senator, it is my judgment at this time that we can assist the Archives, that we are an umbrella for them; that we are supportive and that we can help the Archives to insure its proper role in the Government. As such, it should remain part of the GSA.

Senator EAGLETON. Before we get into some details, let me try to give some sort of a layman's overall concept of what this reorganization means insofar as the Archives is concerned.

In the past, on one of those organizational charts, would there be a line from the National Archives or NARS in Washington to a NARS regional presence?

Mr. KLINE. In some regions there were. In some of the regions, there were not. As things stand today, there is a direct programmatic line from the Archivist to the archival component in each region.

Senator EAGLETON. Would it be fair to say that the power and responsibility of the Archivist has been, in essence, reduced by the reorganization chart now in effect?

Mr. KLINE. No, sir, the authority of the Archivist to oversee activities around the country remains the same.

Senator EAGLETON. Would it be fair to characterize the Archivist's new role as a policy adviser to the GSA Administrator rather than someone who is administering his own program at the regional level?

Mr. KLINE. In terms of operational oversight of activities, we would call on the regional administrator to do that. But in terms of program and policy guidance, that is still fully the role of the Archivist.

Senator EAGLETON. You have the Archivist seated next to you. Do you subscribe to that observation?

Mr. WARNER. Policy directives to the archival functions do flow from the archival office, no question about that. The directives for the basic archival functions of appraisal, disposition, and so forth, come from our office.

Senator EAGLETON. Can you explain the functions of the Federal Records Center?

Mr. WARNER. The Federal Records Centers have two very important functions: They serve as inexpensive housing for Government records that are created in the field. They stay there and are serviced by the records center operation until they either are destroyed when they are no longer needed or they are assessed to be permanently valuable records of the United States and are accepted into the Archives of the United States.

So they serve a dual role serving as inexpensive storage space for records until they are ultimately disposed of, and also serve as a way station for when the records are accepted into the National Archives.

Senator EAGLETON. Are those Federal records centers under the authority of NARS?

Mr. WARNER. The centers are under the authority of NARS. Eleven of the record centers also have an archival branches, and these archival branches have permanently valuable historical records of the United States.

They are just like the permanent records here in Washington, and they serve a very active research function in the field for permanently valuable records.

Those are run programmatically from the National Archives.

Senator EAGLETON. Mr. Carmen, there seems to be an assumption in your reorganization that one can readily separate records management functions related to nonpermanent records and those related to the creation of records having permanent value.

Isn't a distinction of that type the essence of an archival function?

Mr. CARMEN. Yes.

Senator EAGLETON. Is a distinction and a judgment of that type made by the archivist?

Mr. CARMEN. Yes.

Senator EAGLETON. And you feel bound by such decisions as he makes them in that regard?

Mr. CARMEN. Absolutely.

Senator EAGLETON. You indicate, Mr. Carmen, that functions relating to the creation of permanent records having permanent value remain in NARS. Therefore, the adequacy of documentary divisions will be established in the Office of Federal Records Center to develop policy and guidelines for carrying out those functions.

I take it that this means the Office of Federal Records Center at the national level, because at the local level, that office no longer exists; is that right?

Mr. KLINE. If I follow your question correctly, there is going to be a responsibility with the archivist for the adequacy of agency documentation. He will be managing that nationwide, covering all agencies.

Mr. WARNER. That is correct.

Senator EAGLETON. If the records centers are not under NARS at the regional level, why should the Office of Records Centers in Washington be under NARS?

Mr. KLINE. For programmatic purposes and policy direction, they effectively do come together under the archives groups in the regions which are connected programmatically to the headquarters under the Archivist here.

Senator EAGLETON. Would it be fair to say that the Archivist can develop policies on the creation and maintenance of records?

Mr. KLINE. Yes, sir.

Senator EAGLETON. But cannot direct those policies or deploy resources as he sees fit to carry them out, if he has no control in the regions?

Mr. KLINE. He does have program and policy controls in the regions, and he works with the regional officials on the allocation of those resources and handles the reallocation problems across the regions, as well.

Senator EAGLETON. I would ask the Archivist then: Does he find, in his professional expertise, that the organizational structure, as Washington relates to the regional level, is a satisfactory one for the performance of his professional duties?

Mr. WARNER. There has been some concern in the regions itself and in central offices about some loss of identity in NARS in the field. This was brought before us in a meeting that we had last week by our records center directors. This was then, in turn, brought to the attention of all the regional administrators by a presentation that I made about the loss of identity, and there was expression of interest and concern to correct that feeling in the field by the regional administrators.

We will see that that materializes into some action.

Senator EAGLETON. But there is a feeling in the field of, to use your words, of loss of identity?

Mr. WARNER. That was expressed.

Senator EAGLETON. How will you address that feeling if it is an agonizing worry, how will you be able to comfort it or eliminate it?

Mr. WARNER. One step was to bring this information to the regional administrators at their meeting last week, and we will continue to monitor that and see that there is progress in resolving any tension.

Senator EAGLETON. What is the National Historical Publications and Records Commission; what purpose does it serve; and how it is funded in the upcoming budget?

Mr. WARNER. This is an agency that has been in the National Archives for many years. It is a very important Commission as far as the people of this country are concerned because it supports activities relating to the publication of significant historical documents relating to the history of this country and also carries out a program of assisting archives throughout the United States on a local level, regional level and so forth to support their programs in carrying out record activity.

It has been supported through the years by a staff which is paid for by the National Archives and grant funds which have been appropriated by Congress. Currently, $1 million is being spent in that form. This Commission also has taken the initiative to work with private foundations to solicit funds for these various projects, and they have had some considerable success in the past year in attracting private funding.

I think that is one of the good features of this organization. It has brought a merger of Government investment coupled with attractive, substantial private funds; something like $3¼ million has been attracted this past year for some of these important documentary projects like the Adams papers and the Jefferson papers. NHPRC has had a very good and distinguished history.

Senator EAGLETON. So the public moneys are, in many instances, matched by private donations?

Mr. WARNER. They can be. In the past, largely, the grant funds have come from Government appropriations. This year we have had very substantial progress in attracting private funds.

Senator EAGLETON. What is in the Reagan budget for fiscal 1983 for NHPRC?

Mr. WARNER. There are no grant funds in that particular budget. Operational funds, as I say, are flowing through the National Archives and Record Service.

Senator EAGLETON. Mr. Carmen, Congressman George Wortley praised the work of NHPRC and commented—this is Congressman Wortley, in a meeting with Gerald Carmen, the Administrator for GSA, "He assured me that he supported the work of the Commission and would support its reauthorization." Is that correct?

Mr. CARMEN. I don't remember the conversation or the date of the conversation.

Senator EAGLETON. Let me ask, then, is the substance of it accurate?

Mr. CARMEN. I don't know whether we are talking about fiscal year 1981 or fiscal year 1982 or fiscal year 1983 in that appropriation.

Senator EAGLETON. For now I am looking into the future. Do you support the work of NHPRC, and would you support its reauthorization?

Mr. CARMEN. Our position with regard to the Archives is that, within the total budget constraints that we all have to deal with, the Archivist of the United States sets the priorities that he wants to deal with and the missions that he wants to accomplish. So within the total budget, Dr. Warner sets the agenda there as to how the money is spent.

My own feeling on this particular activity—and I think the appropriation is spread between $1 million and $2 million in the past year—is that it is an exciting project. It is one that is of great interest to all of us and one that has enormous appeal to the private sector to contribute toward it. It is my understanding that this year—and Dr. Warner has done an excellent job in that area—we have raised $3.3 million in private funds which exceeds the amount which was appropriated, is that correct?

Mr. WARNER. It comes very close to being about the same amount to be spent for projects over a 3- to 5-year period.

Senator EAGLETON. Mr. Warner, do you strongly urge that the NHPRC program be continued?

Mr. WARNER. It has had a very distinguished history and has contributed very much. It would be a shame for that program not to continue, and I see no reason why it shouldn't.

Senator EAGLETON. Mr. Carmen, I gather you have asked a public relations firm to look at some better way of getting private support for the Archives, is that correct?

Mr. CARMEN. That's correct, on a pro bono basis.

Senator EAGLETON. On a pro bono basis. Have they given you any advice or given you their conclusions?

Mr. CARMEN. We are in that process, and it has been slower, than I expected. In the experience that I am getting in Government, sometimes you think you can do something in 30, 60, or 90 days, and of course you have to stay 6 years to get anywhere. However one of the things I would like to see—and I think the Archivist agrees with me—is the Archives itself be more expansive. It should really reach out in a living way to the American people. Without going on at great length, I think it is an area in which we really don't do as good a job as we should.

You know, there are all kinds of modern technology which would allow us to bring the Constitution and the Bill of Rights right into the classrooms today on monitors and screens. We have something less than 1 million people visit the Archives every year, is that correct?

Mr. **Warner**. People that visit the exhibit hall number about 1 million.

Mr. **Carmen**. Something like 7 or 8 million people visit the Air and Space Museum, for instance. You are talking about the very fiber of our Nation when you talk about the Bill of Rights and the Constitution and all these treasures. One of the things we thought was that if we built a prestigious committee, something like the Smithsonian has, and have an outreach program, that even the Archives were separate, would lend so much more outreach and muscle to the Archives and improve it so much that it would strengthen it.

Who knows what the future would have and hold for it? We don't have any rigid position when we deal with the future of the Archives. I enjoyed very much, as a matter of fact, working with Dr. Warner, and it is an area that I wish I had more time to be into. He probably is glad I don't.

Senator **Eagleton**. I share your sentiments, Mr. Carmen. I think both the preservation of and dissemination of our Nation's history are enormously valuable. To some individuals, discussing the Archives, et cetera, may be an arcane subject matter, but I think our Nation's history is worth preserving and worth making conveniently available to tens of thousands of American citizens. So I defend the Archives budget on the Appropriations Committee because I don't think you can do history on the cheap, and I don't think you can chintz on the preservation of documents.

Although the dollar amounts are not huge, I think we would be making some very serious mistakes if we tried to do history on the cheap.

Let me move on, if I may, Mr. Chairman, to another subject.

Senator **Cohen**. You only have a few more minutes, Senator Eagleton.

Senator **Eagleton**. I have more questions on this subject and then one question on the SBA loan, and then I will quit, I guess.

There was an article yesterday in the Washington Post entitled, "Cleanup Unit Versus Inspector General." I will just read the first paragraph and ask a question.

> An oversight unit set up last year by General Services Administrator Gerald Carmen to help polish up the tarnished image of his agency possibly violated Federal statutes, in its probe of the Agency's own employees, said GSA Inspector General Joseph Sickon.

My question is, do you know of any other department that already has an Inspector General wherein the head of that department or Cabinet agency set up his own investigative unit in addition to, and even possibly in competition with, the Office of Inspector General?

Mr. **Carmen**. No. I don't think you ought to make a judgment on a newspaper story, Senator. We will be glad to go into great length on what we have done.

Senator **Eagleton**. First of all, did you set up a unit?

Mr. **Carmen**. We have an Office of Oversight, but we have not set up an investigative unit.

Senator **Eagleton**. Office of Oversight; is that by benefit of statute?

Mr. **Kline**. No.

Mr. CARMEN. No.

Senator EAGLETON. Do you know of any other department wherein an Inspector General is in existence where a Cabinet officer or the department head sets up an oversight unit similar to yours?

Mr. CARMEN. I would not know whether they had or not. I think you should know that an oversight unit is an administrative function which has helped to bring our space down and control our expenses within GSA; that I think of the 220 people that are in that department, there was a question involving about 13 people.

Senator EAGLETON. What is your relationship with your Inspector General?

Mr. CARMEN. Excellent.

Senator EAGLETON. Why couldn't he, through his statutorially assigned duties, have performed this function for you instead of your setting up a separate unit?

Mr. CARMEN. I think management has a responsibility to make sure it has control of its programs and control of the things it does. I think the IG's section is one element of that. I don't think Congress ever intended to remove oversight functions from somebody in charge of an agency. In fact, on A-123 it seems it is clear that conformability and oversight is to be conducted somewhere other than in the IG's office.

Senator EAGLETON. Mr. Sickon, did you issue a letter or memorandum or something that said that, as quoted in the Washington Post, that this possibly violated Federal statutes?

Mr. SICKON. I did.

Senator EAGLETON. I ask unanimous consent, Mr. Chairman, that the report of the Inspector General dated September 22, 1982, entitled "Review of Selected Investigative Activities of the Office of Oversight," [1] be put in the record as an attachment.

Senator COHEN. Without objection, it will be so ordered.

Strike the caption that says "Plumbers Unit" on top of that.

Senator EAGLETON. What is that?

Senator COHEN. Strike the caption that says "Plumbers Unit" on that. [Laughter.]

Senator EAGLETON. Did Mr. Carmen consult with you, Mr. Sickon, before you set up this unit? Yes or no?

Mr. SICKON. Well, consult is what I am tripping over.

Senator EAGLETON. Did he inform you of his decision or did he reason together with you in advance of his decision?

Mr. SICKON. I believe it would be best described that he informed me of his decision.

Senator EAGLETON. He just told you.

Mr. SICKON. We had a meeting to discuss the charter——

Mr. CARMEN. Actually, if I can interrupt here——

Senator EAGLETON. I was asking the question of Mr. Sickon.

Mr. CARMEN. Excuse me.

Senator EAGLETON. Did you inform Mr. Carmen that you, as Inspector General, could perform the kinds of duties that he envisioned with this oversight unit?

Mr. SICKON. When we had our discussion, it centered around the language in the order and that I felt it was objectionable. Mr.

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[1] See p. 71.

Carmen assured me that I was misinterpreting that language and that there would be no problem, and that it was not the intention of the Office of Oversight to do the kinds of things that I had assumed they might be trying to do. Therefore, there was really no problem at that time. I think that the problem developed later.

Senator EAGLETON. And what was the problem that developed later?

Mr. SICKON. I believe it is adequately described in the report, where certain efforts of that office do impinge upon the responsibilities of the Inspector General. We had worked together very well, and the Administrator has always said to me, "If you find something wrong, come and tell me about it and we will fix it." In this case, that is exactly what we did.

I believe that certain things transpired that do impinge upon the Inspector General Act. I wrote the report to the Administrator and the Administrator has taken actions which address basic problems stated in that report.

Senator EAGLETON. The Inspector General report, the one that we put in the record, documents four cases in which the Oversight Office was engaged in criminal investigation, each of increasing seriousness. Are these cases that you asked the office to investigate, or were they operating under their general charter, Mr. Carmen?

Mr. CARMEN. These are cases where they operate under general charter. But the report does not confirm the facts, so that what we are working out now between the IG and our office is where we have a difference of opinion. As the IG said, we have taken action on it. I think it is rather strange, Senator, that in an agency that was symbolic of waste, fraud, and abuse it should be brought to our attention that we may be criticized because we went out to control waste, fraud, and abuse, using the IG for the fraud area, using the Oversight Committee for the management area. I don't think we should be criticized for trying to restore the integrity of the Agency in a very enthusiastic way.

Senator EAGLETON. Having read the report of the Inspector General dated September 22, are you rethinking this unit?

Mr. CARMEN. We have responded to that report. I don't know whether you have our response. We have accommodated some of the Inspector General's wishes, I believe, and we have also sent a part of it over to the Justice Department for determination to see whether the facts are as the Inspector General has stated.

Senator EAGLETON. One or two questions, and then I'm through. On your SBA loan, Mr. Carmen, the disclosure form provided to this committee that is given to all Presidential nominees states this: "Provide a complete current and certified worth statement which itemizes, in detail, the identity and amount of each liability owed, directly or indirectly, which is in excess of $1,000."

Then I emphasize these words, "This should include but not be limited to debts, mortgages, loans and other financial obligations for which you, your spouse or your dependents have a direct liability or which may be guaranteed by yourself, your spouse and your dependents."

At the time that form was to be filled out, you had a loan with the Small Business Administration in the amount of $400,000, a 30-year loan at 6½ percent interest, an additional $25,000 loan that was approved in April 1975. The loan was personally guaranteed by yourself and your wife. Yet you did not disclose that $400,000 plus loan on the disclosure form. In light of those words that I have read to you, it is a verbatim quote, why didn't you disclose them?

Mr. CARMEN. There is no question that that should have been disclosed and that I did not. I wish that it had been disclosed, but the intention was not to keep anything hidden. In fact, Senator, it is inconceivable to me, and it was at the time, that a Federal loan would be a secret from the Federal Government.

Senator EAGLETON. It is not a question of being a secret from the Federal Government. It is a question of the committee that had jurisdiction over your confirmation.

Mr. CARMEN. I understand better now that things don't work as you think they might work from the outside. At any rate, it was not an attempt to keep anything from anybody. It was the total assets I had responsed from on my balance sheets. I had completed a form at the same time for another group for which I was submitting a formal statements as required, and I really overlooked it.

As I have said in my letter to this committee and to Senator Roth, I apologize for not having it in. I wish I had put it in. There was no intent to keep it a secret. I feel very badly, as you say in your opening remarks, that the way this agency had performed in the last 15 months should be at all tarnished by this.

Senator EAGLETON. Is that loan being kept current from your point of view in terms of repayment?

Mr. CARMEN. That building has been sold. I didn't want to do it. It cost me considerably, financially, but I just didn't think that I could serve the Government and have that kind of cloud over my head. So, I proceeded to dispose of it. The property has been sold. I no longer have the loan, and all the past due taxes have been paid.

Senator EAGLETON. And the loan has been fully repaid to this loan company?

Mr. CARMEN. The building was sold to another party who assumed the mortgage. The past due portion of it and the taxes were paid.

Senator EAGLETON. And the taxes were paid. Were taxes always paid in a timely way?

Mr. CARMEN. Well, they were normally paid in what would be considered a timely way, I think, in the private sector. [Laughter.]

Senator COHEN. You mean late? [Laughter.]

Mr. CARMEN. I got into that conversation earlier when it first came up, and I did not mean late. This time it was late because the property had been empty, but before that it was timely.

Senator EAGLETON. There is an indication that the city's tax collector office showed the taxes had not been paid on the property for 2½ years.

Mr. CARMEN. That was the taxes on the building. Senator, that building was rented to another party who had assumed the tax responsibility. He did not live up to his commitments, so the taxes were not paid. They became my obligation, and when they became my obligation, I paid them. Those taxes are paid and the other obligations were handled.

Senator COHEN. Senator Levin, you indicated you had one question.

Senator LEVIN. I have three 10-second questions.

Senator COHEN. Hopefully that will require three 10-second answers.

Senator LEVIN. The answers will be shorter than the questions.

First, Mr. Carmen, did you hope that the 21 senior executives that were transferred would all stay on with the agency? Was that your hope?

Mr. CARMEN. Yes, sir.

Senator LEVIN. Did you ever express the hope to anybody that any of those, any one or more of those would not accept the transfer?

Mr. CARMEN. No, Senator.

Senator LEVIN. Mr. Kline, are your answers the same to those questions?

Mr. KLINE. Yes, sir. That is correct.

Senator COHEN. Thank you very much.

Mr. Carmen, I want to thank you for coming this morning.

Before we disband—and the reason we have to get out is that we have a House-Senate conference that has to be set up—let me just tell you my personal reaction to the number of people who are here. When I first saw the group that you brought in, it reminded me of the Pentagon coming to testify before the Armed Services Committee. They are about the only ones I have seen in 10 years that have as many people accompanying them. It occurred to me that it is an incredible waste to have all these civil servants up here listening to you testify, other than those who are called to assist you. I have no criticism of the ones who are here to assist you, because, frankly, we are in the same position.

We are supposed to know what is going on in the Federal Government. I can tell you, take a look at our staff here. They are frequently bending over, informing us of some of the details which may escape us. I don't have any criticism of that. In fact, when I am called to go on television, I wish I could have a number of those staff people there to advise me how to answer the reporters' questions. But it still occurred to me, nonetheless, that there are a lot of people here today who really have no function other than lending moral support. It occurred to me that this was a waste.

On the other hand, as I sat here a different thought came to mind. For all the years that I can remember, there has always been a war between Capitol Hill and the bureaucracy downtown. We condemn bureaucrats, and I am certain that bureaucrats condemn Senators and Congressmen. I am sure they have less than a high regard for those of us up on Capitol Hill.

So what occurred to me is that perhaps this is your team, as you have indicated in your testimony. You really instilled a sense of high morale in an agency which is long in need of it.

We are all public servants. We all are paid from the same Treasury, and we all have the same goal—to serve the public. The difference is that we are elected by the people and you are, in contrast, appointed by people or hired by others. Yet we all are to remain accountable. We are to be accountable every single day, every weekend that we go home, every year or every 6 years.

Some have expressed concern about undue or lack of timely notice about termination. For us November 2, depending on the year, or November 4, is when the notices up here are given out. It is not private or it is not by a letter. It is in full disclosure within our States that we are being terminated and to get our bags packed because we are moving.

So I hope that all of you who are in the room today have learned from this experience. Mr. Carmen and the others who have testified this morning are called upon to account for their decisions. You have to account to people who are elected to account to the people that we all serve.

So if you go back to the agency with a renewed understanding, perhaps, that we are all serving the same goal, I think your time here will not have been wasted.

With that, Mr. Carmen, let me commend you for testifying this morning. I think it has been helpful. We will continue to exercise our oversight as you continue to exercise yours.

Mr. **CARMEN**. Thank you.

[Mr. Carmen's prepared statement follows:]

PREPARED STATEMENT OF GERALD P. CARMEN

Mr. Chariman and members of the committee, I am pleased to have the opportunity to appear before you today for this oversight on the General Services Administration.

This is my first appearance before the Committee since my confirmation hearing on April 8, 1981. On this occasion, I told you that I was deeply committed to President Reagan's philosophy of government and that I fully intended to carry out the wishes of the American people to bring the size and the cost of government under control.

In my opening statement before this Committee, I dealt with my philosophy of—and the opportunity for—reducing cost, instilling a sense of teamwork and dedication in the GSA workforce, streamlining and simplifying procurement procedures, stimulating competition, and borrowing both energies and resources from the private sector.

Today, I welcome this chance to share with you many of the improvements we have made at GSA during the past 15 months. I also welcome the opportunity to learn, firsthand, your concerns and views of the General Service Administration.

Fifteen months ago, when I first sat before this Committee, GSA was looking on as the stereotype of all that was bad about government. The agency was maligned, rocked by scandals, suffering from shabby image and low morale.

Today, I am pleased to report impressive changes at the agency. We have made great strides in improving, simplifying and economizing within GSA. We have brought order out of chaos. We have begun to return respectability to government and to restore the taxpayers' faith and confidence in the integrity of government.

I believe we can judge our success by our progress in three key areas: Budget restraint—greater efficiency at lower costs; clients services—better relationship with our client agencies, and control of waste, fraud and abuse—maintenance of the integrity of the agency and its programs.

I can assure you—without qualifications or reservation—that GSA has made significant progress in all three areas. We are doing a better job now than before, and we are doing it with substantially less money and with significantly fewer people. GSA is more efficient, but less costly. GSA is leaner, but more responsive to client agencies. GSA is more businesslike, with bottom-line accountability to the taxpayers who fund us.

The progress GSA has made over the past 15 months has been substantial in both the way we operate internally and the way we carry out our Government-wide responsibilities. In our management of GSA, we have operated on the premise that we must set an example for the rest of government. We cannot expect other agencies to do what we do not do ourselves.

Within GSA, we have reduced our budget, our personnel and our space while maintaining—and in many cases improving—the quality of our service.

I fully supported the congressionally mandated 16 percent reduction of requested funding for fiscal year 1982. GSA appropriations of $476 million for this current fiscal year are $230 million less than those enacted in FY 1981. Direct obligations for ongoing GSA operating expenses this year declined more than $38 million from the previous year, despite inflation and pay increases.

In addition to carrying out our functions with less funding, we also have done so with fewer people. Since November 1980, the total paid GSA workforce has decreased by nearly 7,000 employees, from 37,741 to 30,746 as of July 31, 1982. This reduction in personnel brings with it savings to the taxpayers of roughly $150 million in recurring salaries and benefits.

The reduction was accomplished primarily through a tough hiring freeze and subsequent attrition which is much preferable to the complex and counter-productive reduction-in-force process. In fact, only 160 of these people left the agency involuntarily because of the 16 percent reduction. We feel that our approach was more humane and easier on our employees than massive RIFs or furloughs would have been.

In all of our personnel actions—past, present and future—our objective remains constant: To do what is best for the agency, and for the taxpayers, with concern and compassion for our employees.

As the size of the federal workforce diminishes, we must plan for a more economic use of available space. At GSA, we applied a 20-percent space reduction goal for fiscal year 1982. We have surpassed our goal ahead of schedule. In April, we achieved a 22-percent space reduction agency-wide, with savings of $6.2 million annually. In our role as custodian of space for civil agencies of government, we set an example which, if followed, could save an estimated $2 billion over a 5-year period.

In addition to these very positive actions, we have devoted much-needed and long-overdue attention to improving the management of GSA, both here at headquarters and in our 11 regions.

At GSA, we believe our employees are rising to the challenges to conserve resources, improve performance, and operate efficiently at the highest standards of integrity. As the Administrator, my job at GSA is to assemble a top-notch management team, point them in the right direction, provide them with the tools to do the job and then turn them loose to do it. Let me review some of the things they have accomplished in the last fifteen months.

In assembling the management team, we took a 180-degree turn from prior agency philosophy and took more of a businesslike approach. We wanted to create a team comprised of the best of both worlds—outstanding career government executives mixed with a good portion of private sector know-how. To achieve this, we have:

Formed an Advisory Board, comprised of successful corporate executives, financial leaders and educators—each involved in activities similar to ours—that meet periodically to brainstorm our operational methods and procedures. Some of our improvements are traceable to suggestions made by this very dynamic group.

Hired executives and highly qualified private industry executives to key GSA management positions—posts in which their private-sector experience helps us deal with GSA problems. We have teamed these individuals with outstanding career executives to provide a balance of innovative approaches with seasoned practicality.

We have carried this approach into our regional activities where two of our regional administrators are experienced, dedicated and capable career employees. The other regional administrators were recruited from the private sector. From existing executive resources we have reassigned to the regions talented and experienced career executives. As a result, we now have the executive mix that can make GSA work efficiently and economically for the benefit of all of government and for the taxpayers.

We established a theme for GSA—"Give it your Best"—and we expect no less from all our employees—from the highest valued executive to the person who keeps our buildings clean, who tunes our engines, or guards our people and our property. We expect GSA employees to take pride in their job, work as a team, and strive for excellence in performance.

It is my obligation, and that of my management team, to provide our employees with the resources and tools to do their job. To accomplish this, we streamlined our organization, removed unnecessary layers of management, combined functions, and reallocated scarce resources.

Under the reorganization put in place last spring in GSA's 11 regional offices, we have consolidated six major functions into three. They are: The Office of Public Buildings and Real Property, responsible for all government real property; the Office of Personal Property, responsible for logistical needs; and the Office of Information Resources Management, responsible for the use of records, computers and telecommunications systems. This regional alignment has reduced supervisory layering by 25 percent, allowed personnel cost reductions of $57 million and permitted us to sharpen our focus on the essential services we provide to client agencies in the field. We will be providing the same services—but doing them better for less cost.

Central Office operations have been realigned in a similar manner. Since the end of last fiscal year, Central Office personnel costs have been reduced by at least $21 million. The consolidation of the Transportation and Public Utilities Service into the Office of Personal Property and the Office of Public Buildings is expected to reduce GSA Central Office overhead by at least $1.5 million.

These savings, along with others, permitted GSA to achieve the budget reductions mentioned earlier, while allowing more resources to be used for our operating programs.

We also have taken actions to improve the agency's policy formulation, management systems and management controls. Specifically:

An Office of Policy and Management Systems was established a year ago to provide (for the first time in GSA) an agencywide approach to stimulate and coordinate policy initiatives and management improvements. Recently, both the GAO and OMB have started new programs to emphasize attention to the management systems in government; but, to my knowledge, GSA is the first civilian agency to make this effort an integral part of its top management structure. The results of this approach are evident in many of GSA's recent achievements.

An Office of Program Control was established at the central office and regional levels. Staffed by bright, aggressive, mid-level career employees with expertise in major program areas, it tracks the implementation of top-management policies, monitors and assesses program results, and searches for new, and different, and better ways of doing things. The staff confirms accuracy of information received, and provides me and other high level officials with the kind of current, incisive and complete information we need to make important decisions.

An Office of Oversight was created to strengthen administrative control of the agency and to monitor audit recommendations made by GSA's Office of the Inspector General and the General Accounting Office, taking the lead in assuring that suggestions are implemented. This office has been instrumental in the success of many of our internal administrative cost initiatives, such as 22-percent space reduction, our 50-percent reduction in official travel, training and periodicals subscriptions; our freeze on consulting studies; our freeze on the purchase of carpets, drapes, and office equipment; our efforts to modify and reduce the cost of the signage program, our reduction in the number of radio dispatch cars, and the elimination of all unnecessary telephones. One of the reasons these results have been achieved is that the responsibility for administrative functions is separate from the financial and personnel activities and reports directly to me, thus focusing attention on these issues.

We are attempting to give our employees better tools to do their job, including:

The first, uniquely tailored (for GSA) series of training courses for supervisors and middle managers. Surveys of initial employee reaction to these sessions indicate an overwhelmingly favorable response compared to past training efforts.

The development of performance and productivity measurements that can be used by employees and managers alike to judge accomplishments. For example, a series of performance indicators called "How do you Stack Up?" allows regional managers to assess how they are doing relative to their peers. On a more individual level, GSA leasing specialists set an individual objective for each lease and are expected to obtain it. This has resulted in an anticipated overall reduction of 38 percent in the average time it takes GSA to complete a new lease.

To help insure the integrity of our activities, several management controls have been put in place.

We have intensified efforts throughout the agency to foster employee understanding and observance of the highest ethical principles in the conduct of the government's business. Through the use of audio-visual training materials and an active personal counselling program, we have seen a heightened awareness and adherence to the standards of conduct for government service. Taking full advantage of the power of example, I have insisted on the strictest observance of these principles at the top of the agency.

A key partner in our management team—and in our efforts to control fraud, waste and abuse—is the Inspector General. We have established a relationship that is open and constructive. His involvement is at the front end of the management process as well as after the fact auditing. He is regarded as an important part of the solution to GSA's past problems.

We have worked hard to improve the coordination and communication among the Inspector General's Office, all levels of GSA management, and GSA employees in general, in an effort not only to combat fraud, but to improve the effectiveness of GSA's overall operations.

I am very much aware of the unique function the Inspector General plays in the affairs of the agency. As the independent watchdog of GSA programs and activities, his responsibility to the President and to the Congress to protect the taxpayers from government waste, fraud, and abuse encompasses everyone at GSA, including me.

Working through a system of action committees, comprised of I.G. personnel and selected program managers, we are identifying and reviewing problem areas within the agency. Recommendations are made to me on ways to deter fraud and improve the effectiveness of GSA's services to the federal community.

I consider audits an important management tool. Audits that call attention to basic kinds of problems and offer constructive criticism are assets to management. That's what our Inspector General's reports give me. And I welcome and use them.

Our Office of Oversight, which I mentioned earlier, also helps us identify and correct problems before they reach major proportions.

In addition to these measures to improve the overall management of GSA internally, we have made major strides in improving the agency's management of its government-wide responsibilities.

Within GSA's Federal Supply Service, we have overhauled our nationwide supply distribution system and modernized our merchandising methods. We have simplified procurement procedures, increased the use of commercial item descriptions, encouraged competition, reduced paperwork and lowered costs.

We have revamped our quality assurance program to place greater responsibility on our suppliers for testing and quality control.

We have reduced our total paid supply-related workforce by nearly 500 employees, while improving delivery time at GSA warehouses, increasing the number of orders filled on initial processing, reducing backorders, and raising contract coverage on our multiple award schedules. We have, quite literally, proved more can be done for less.

As we merge transportation functions with FSS into a new Office of Personal Property, we expect even greater efficiencies and savings by providing federal agencies with one-stop service for logistics needs.

But most importantly, our responsiveness to the needs of our client agencies in the supply area has improved dramatically. Just ask the agencies we serve.

GSA's Public Buildings Service is an area where we intend to focus a good deal of attention in the coming fiscal year. Although progress has been made in this program over the last 15 months, there is still room for substantial improvement. Under the new leadership in PBS, we expect a renewed enthusiasm and vigor for bringing the very serious problems that still exist in that program under control.

We have set a goal to shift the federal workforce, on a carefully measured course, from the current, approxmate 60/40 percent ratio of government-owned space versus leased space, to something in the range of 80 percent public and 20 percent private.

We also have initiated a pilot project to turn responsibility for maintenance, minor repair and alterations, and protection of selected buildings to the Departments of Justice, Labor and Transportation in the Washington area.

We already have shortened the time that it takes to lease commercial space for client agencies, from an average of 320 days to about 200 days, a 38-percent gain. And we reduced the backlog of some 1,500 unawarded leasing actions, with a zero balance in sight by the end of this fiscal year.

For the Social Security Administration (our single largest user) in 1982, GSA completed more leases in the first 5 months than in any previous 12-month period since 1977 when this data was first collected.

GSA's travel and transportation initiatives during the past 15 months have been impressive. We achieved savings of more than $30 million annually through strong, innovative management of a range of services for federal employees on official travel: discount air fares, discount rates at 2,200 lodging establishments nationwide, and discount rates on AMTRAK.

We launched pilot projects with commercial travel agencies to furnish, efficiently and economically, a complete range of travel services for federal employees and detailed records for use by GSA and client agencies.

We also recovered, through post-audit, approximately $9.2 million in refunds for unused, or partially used, airline tickets.

Within GSA's Federal Property Resources Service, we have reduced personnel by more than 30 percent, closing operations which were not cost effective, such as the office machine repair shop and personal property centers.

We managed the first significant national defense stockpile acquisitions in 20 years, including 5.2 million pounds of cobalt for $78 million, 1.6 million tons of bauxite for $68 million, and refractory bauxite, tantalum and iridium for $7 million. We also have disposed of excess stockpile commodities resulting in receipts of $176 million to date this fiscal year.

In addition to real property receipts of $100 million this fiscal year, we are gearing up to support the presidential initiative to sell government excess and surplus real property: $1.2 billion in fiscal year 1983; $2 billion in fiscal year 1984; and $2 billion in fiscal year 1985.

Within GSA's National Archives and Records Service, we have made every effort to see that the Archives is able to carry out its essential program mission in a highly professional and cost effective manner. We have exempted the Archives Building and Presidential Libraries from all Standard Level User Charges, thus freeing some $5 million for selected and special projects in fiscal years 1982 and 1983.

We have initiated efforts to enlarge the use of, and support for, the Archives with the assistance of a private firm on a pro bona basis. A Presidentially appointed Board will be set up to help reach these goals with private funding.

We also began the transfer of federal records centers funding from direct appropriations to a reimbursable basis, which will make the operation self-sufficient.

Within GSA's Office of Information Resources Management (formerly the Automated Data and Telecommunications Service), we have worked to improve government operations by providing support to agencies for the procurement and management of modern data processing and telecommunications technology. We have encouraged the application of current information technology to improve operating effectiveness, achieve cost reductions, and increase the productivity of federal personnel in a manner which will give full return on the investment of tax dollars.

We initiated telecommunications cost reductions totaling more than $40 million a year by increasing competition in the provision of both long distance and local services, automating switchboards, and encouraging improved agency management techniques. The exchange of ideas and information with private sector telecommunications directors through the GSA Advisory Board was a major contributor to this effort.

We simplified and streamlined the data processing procurement process for agencies having sound ADP planning and good procurement track records. Partially as a result of these initiatives, agencies have been able to increase the speed at which they modernize their equipment, resulting in an average equipment age of 6.2 years today, compared with more than 12 a few years ago.

We combined the management of all government-wide ADP, telecommunications and office automation programs into a single focal point providing a coordinated and unified approach for government agencies. This will result in a consolidation of the regulations covering these activities into a single, simplified set.

We established the Washington Telecommunications Interagency Committee and, working with other agencies, have developed the first comprehensive plan for maximizing competition for future telecommunications in the Washington area. We also are assisting the Social Security Administration, the Federal Aviation Administration and the Department of the Navy in the development of their major new systems plans.

GSA's Office of Acquisition Policy is taking the lead in a two-prong approach to the Multiple Awards Schedule program. We are improving and simplifying our current policy and procedures to achieve more favorable pricing arrangements for federal agencies. At the same time, we are reviewing items currently on the Schedules to determine those that might be better covered by Commercial Item Descriptions. This will provide the basis for using competitive procurement techniques for these items currently ordered in significant quantities.

The office is working on the development of a single, government-wide acquisition regulation for civilian agencies and the Department of Defense.

In conjunction with the Office of Federal Procurement Policy, we developed a Government-wide policy on debarments and suspensions that is presently being implemented by the Executive Branch. We also took responsibility for the Government-wide debarred, suspended and ineligible contractors list.

Our Office of Small Disadvantaged Business Utilization monitors our progress in reaching procurement preference goals we have set through negotiations with the Small Business Administration.

We place great emphasis on the various procurement preference programs and believe very strongly that small and disadvantaged business firms must be given the maximum practical opportunity to participate in contract awards by the Federal Government.

In Fiscal Year 1981, we awarded $1.5 billion (41 percent of our total procurement budget) to small business firms; through third quarter fiscal year 1982, $1.3 billion; and for fiscal year 1983, we have proposed a goal of $1.8 billion. We have steadily been increasing our use of socially and economically disadvantaged firms. In fiscal year 1981, we awarded $192 million and in fiscal year 1982 through third quarter we awarded $218 million. These fiscal year 1982 awards already exceed the total awards made in fiscal year 1981 by 13.5 percent. Further, our proposal for fiscal year 1983 is $229 million to the awarded to socially and economically disadvantaged business.

We have made substantial progress, in the first 15 months, but we still have a long way to go to make GSA the kind of agency its employees, its clients, and the taxpayers want, need and deserve.

The GSA of the future should be a smaller agency which exercises a greater role in managing the Government's assets. In coordination with the Office of Management and Budget and the Office of Personnel Management, GSA should become the central management agency for federal general services. The agency would develop and monitor government-wide policies and standards for procurement (in cooperation with DOD), property management and information resources management.

While the Hoover Commission and subsequent legislation laid down the framework and goals for GSA, they did not provide all of the management tools and the flexibility needed to accomplish those goals. That flexibility can be achieved through legislative changes that would: Permit full-cost funding for our federal supply program and other activities which would enable us to respond to the changing needs of our client agencies; revise the processes and procedures for carrying out the Federal public buildings program; allow the use of a variety of means to recover funds due the Federal Government, and provide flexibility to transfer funds between GSA programs in order to better manage those programs.

Many of the problems facing this nation today have developed over many years and cannot be solved overnight. The same is true of many of GSA's problems. However, in 15 months, we have made a good start at putting the agency back on the right track.

We have met successfully the challenge of budget restraints and improved client service and have worked towards an agency that is free of fraud, waste and abuse. We are doing things quicker, cheaper and better—with less cost to the taxpayer.

The credit for that success must go to the women and men in GSA. These same people, who suffered in the past from the image of a poorly managed, corrupt agency, have, through their renewed spirit and leadership, made possible the progress of the last 15 months.

Together, we have assumed a leadership role in carrying out the President's commitment to reduce federal spending and to make government smaller and more efficient. With your help, we can be the bellwether for the rest of government.

Senator COHEN. The committee will stand adjourned.

[Whereupon, at 12:15 p.m., the committee recessed, to reconvene at the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PROPOSED SALE OF THE
49 FOURTH STREET PROPERTY
SAN FRANCISCO, CALIFORNIA

3D-20876-00-23

SEPTEMBER 16, 1982

OFFICE OF AUDITS

General Services Administration
Office of Inspector General
Washington, DC 20405

Date SEP 16 1992

Reply to Attn of Inspector General (J)

Subject Final Report on Proposed Sale of the 49 Fourth Street Property, San Francisco, California (3D-20876-00-23)

To The Administrator (A)

This report contains the results of our review of the proposed sale of the 49 Fourth Street property, San Francisco, California. A draft of this report was not discussed with GSA management due to the requirement for immediate administrative action. We wish to express our appreciation to the officials and other employees of GSA for their cooperation and courtesies extended during our audit.

Please furnish a time phased plan of actions to be taken to the Inspector General within 30 calendar days from the date of this report.

JOSEPH A. SICKON
Inspector General

Enclosure

Executive Brief on the Review of the Proposed Sale of the 49 Fourth Street Property, San Francisco, California

3D-20876-00-23

September 16, 1982

SCOPE OF AUDIT:

This review consisted of an analysis of all pertinent documents and events leading to the Administrator's decision to sell the 49 Fourth Street property and the Federal Property Resources Service (FPRS) subsequent disposal actions. Discussions were held with GSA officials involved in the property disposal decision, officials representing the City of San Francisco, and members of a Washington, DC, law firm representing the Marriott Corporation. The purpose of the review was to determine if the proposed property sale was in the Government's best interests and whether the Administrator's decision was influenced by political considerations.

Audit work was performed in the Central Office and in Region 9 during July and August 1982.

PROBLEMS FOUND:

- The Administrator's decision to sell the 49 Fourth Street property was made without sufficient comparative cost data and the appraisal obtained by GSA may have understated the property's value. As a result, there was no assurance that the proposed sale was in the Government's best interest. There was no evidence to prove or disprove that the Administrator's decision was influenced by political considerations.

CAUSES OF THE PROBLEMS:

The Administrator did not ask for and the Public Buildings Service did not provide the comparative cost data necessary to make an "informed" decision on whether to sell the property or negotiate a property exchange. Further, the appraisal valuation appeared to be understated due to inappropriate restrictions in the appraisal contract which directed the appraiser not to consider any special use benefits that might accrue to the intended buyer.

MAJOR RECOMMENDATIONS:

- The Administrator should request an analysis that compares the economic advantages of the various "sale" and "exchange" scenarios concerning the 49 Fourth Street site to aid him in making a disposal decision.
- The Administrator, before negotiating a sale or an exchange of the 49 Fourth Street site, should request that the appraisal be updated and amended to consider the special use benefits which might accrue to the intended property recipient.

PROPOSED SALE OF THE 49 FOURTH STREET PROPERTY, SAN FRANCISCO, CALIFORNIA

INTRODUCTION

The Office of Audits has completed a review of the proposed sale of the Federal property at 49 Fourth Street, San Francisco, California. The review was requested by the Administrator and several members of Congress.

The objective of the review was to determine if the proposed sale to the City of San Francisco was in the Government's best interests and to determine if the Administrator's decision to excess and sell the property was influenced by political considerations. The review included an analysis of all pertinent documents and events leading up to the Administrator's decision to sell the property and the Federal Property Resources Service disposal actions subsequent to the Administrator's decision. Discussions were held with GSA officials involved in the property disposal decision, officials representing the City of San Francisco, and members of a Washington, DC, law firm representing the Marriott Corporation. Audit work was performed in the Central Office and in Region 9 during July and August 1982.

RESULTS OF AUDIT

There was no assurance that the proposed sale of the Federal property at 49 Fourth Street, San Francisco, California, was in the Government's best interests. Our review disclosed that the Administrator's decision to sell the property was based on insufficient comparative cost data. In addition, we found that the sale negotiations were based on an appraisal which may have understated the property's value. Our review of the circumstances leading to the Administrator's decision to sell the property neither proved nor disproved that political considerations influenced his decision.

Decision Made Without the Benefit of Comparative Cost Data. The Administrator did not have the benefit of sufficient comparative cost data when he made his decision to sell the Federal property at 49 Fourth Street, San Francisco, California, to the City of San Francisco. A cost analysis addressing the benefits of selling the property versus exchanging it, was neither requested by, nor provided to, the Administrator, nor was one prepared by the staff for their own use. We believe that such an analysis would have assisted the Administrator in making an informed "sell" or "exchange" decision. Without such an analysis there was no assurance that his decision to sell the property to the City was in the Government's best interests.

We noted that a cost analysis was performed at the Administrator's direction eight months after he made his decision.

However, that analysis addressed only the "opportunity cost" (cost to the economy) of not using a resource which could otherwise add to the gross national product and the City government's tax base. Although this analysis may have some merit when considering the overall economy, it did not address the economic impact on the Federal Government or the current economic conditions in the San Francisco area. A more meaningful analysis would have considered the appreciation in San Francisco land values. The 49 Fourth Street site, according to a January 1982 appraisal, has more than tripled in value during a recent two year period.

Property Value Understated. To negotiate a sale or an exchange of Government property, Government negotiators must obtain a reasonable estimate of the property's value by means of an appraisal. Although our review of market conditions in downtown San Francisco indicated that the contract appraisal provided a reasonable estimate of the "fair market value" of the 49 Fourth Street site, the appraisal did not consider the additional value of special benefits which would accrue to the intended buyer, the San Francisco Redevelopment Agency (SFRA). This additional value, derived in part from the buyer's ability to close two streets and to assemble a site which could accommodate two large commercial structures with desirable Market Street frontage, is referred to in appraisal terminology as "assemblage" or "plottage" value. Only the SFRA, which owned land surrounding the Federal site on three sides, could derive these benefits by purchasing the site. There have been several occasions in the National Capital Region where Government property was sold to adjoining property owners at prices which included a contract appraiser's estimate of the "assemblage" or "plottage" value.

"Fair market value" is defined as "the highest price estimated in terms of money which the property will bring if exposed for sale in the open market by a seller who is willing but not obligated to sell, allowing a reasonable time to find a buyer who is willing but not obligated to buy, both parties having full knowledge of all the uses to which it is adapted and for which it is capable of being used." In this instance, however, the 49 Fourth Street property was not offered for sale in the open market, but was to be sold by negotiated sale to the SFRA. Also, the SFRA has stated that they cannot complete their current redevelopment project without purchasing the Federal site. Therefore, it is questionable whether the SFRA can be considered a buyer who is "not obligated to buy." As a result, a "fair market value" estimate may not be the only value mark on which to base sale or exchange negotiations. The additional special use value of this property to the intended buyer should be identified and made available for the use of the Government negotiator.

We further noted that the special use benefits to the SFRA were not included in the appraisal report because the terms of the appraisal contract specifications restricted the scope of the appraiser's assignment. The appraiser was directed to value the property "on the basis of its highest and best use on a stand-alone basis and not as directly affected by the adjoining redevelopment project." As a result, we believe that the property's value may have been underestimated.

GSA Handbook PBS P 4000.1, "Excess and Surplus Real Property," Chapter 3-5, paragraph 7, states that "Disposal activities should be conducted with the objective of obtaining the maximum price possible." In order to adhere to this policy, GSA should have considered, in the sale negotiations, the additional "plottage" value to the SFRA.

Propriety of Administrator's Decision. The Administrator's decision to declare excess and to sell to the City of San Francisco the 49 Fourth Street property has been criticized in news articles and questioned by members of Congress. Because the timing of the Administrator's decision coincided with "lobbying" efforts of officials of the Marriott Corporation, one of the prime beneficiaries of the Administrator's decision, the propriety of the Administrator's actions has been questioned (see Background - page 12). We therefore attempted to determine whether the Administrator's decision was made before, during, or subsequent to the Marriott Corporation's lobbying efforts. Our review neither proved nor disproved that the Administrator's decision to dispose of the 49 Fourth Street property was influenced by political considerations.

A joint hearing of the House Subcommittees of Investigations and Oversight and Public Buildings and Grounds was held August 4, 1982, to review the proposed sale of the 49 Fourth Street property. At the hearing, the Administrator stated that he initially became involved in the 49 Fourth Street matter in the middle of August 1981 when he received a telephone call from the Mayor of San Francisco. The Mayor discussed the problems the City had experienced negotiating a property exchange transaction with GSA, Region 9. As a result, the City had decided to seek an outright purchase of the 49 Fourth Street property. According to the Administrator, he looked into the question and became favorably disposed towards selling the property to the City.

At that time, GSA's Public Buildings Service (PBS) provided information to the Administrator which emphasized GSA's need for a building site in San Francisco and recommended accommodating the City's need for the property through an exchange transaction. On September 18, 1981, the Mayor of San Francisco, in a letter to the Administrator, urged that he "encourage the Regional GSA staff to work cooperatively with the City to accomplish the sale of the Fourth Street property to the Agency." The Mayor explained that exchange negotiations had not been productive and the City had no alternative other than to pursue outright acquisition of the 49 Fourth Street site.

On October 30, 1981, the Acting Commissioner, PBS, prepared a decision paper for the Administrator which provided two alternatives, "sell" and "exchange". The Acting Commissioner selected the "exchange" alternative, signed and dated the document, and had the document taken to the Administrator's office.

Discussions with several GSA personnel indicated that the document was given to the Director, Office of Program Control, in the Administrator's office. This individual had visited San Francisco to look at the Federal site and the proposed exchange site at Third and Mission Streets. Reportedly, this individual reviewed the decision paper for a day or two before giving the document to the Administrator. He recalled that he verbally recommended to the Administrator that a special team be formed and sent to San Francisco to identify an acceptable property and negotiate an exchange. During the Subcommittee hearing of August 4, 1982, the Administrator's recollection was that the Acting Commissioner, PBS, "brought in this recommendation or fact sheet, and I signed it when he brought it in. So I would assume that the 10-30-81, if that is the same date that he showed it to me, was the same date that I signed it in my office."

During the two week period following the date the Administrator recalled signing the decision paper, letters were received from and meetings were held with Marriott Corporation representatives. On November 3, 1981, Mr. Frederic V. Malek, an Executive Vice President of the Marriott Corporation, sent the Administrator a letter urging the Administrator to act on the City's purchase proposal. The letter stated that "This proposal should be acted on expeditiously as it benefits not only the City of San Francisco but also President Reagan, the U.S. taxpayer, and private enterprise." It listed reasons why GSA should sell the property to the City and stated that "The above reasons are why Bill Marriott, the Marriott Corporation, and I stand squarely behind this project and urge you to instruct your staff to proceed expeditiously with the sale of this land."

On November 9, 1981, the Administrator met with Mr. Martin L. Artiano, a member of a law firm representing the Marriott Corporation. According to the Administrator and Mr. Artiano, this meeting was a social visit and the 49 Fourth Street matter was not discussed. The Administrator and Mr. Artiano had met previously while compaigning for the 1980 Presidential election.

On November 12, 1981, the Administrator received a letter from Mr. Artiano regarding the 49 Fourth Street matter. Mr. Artiano requested that the Administrator should persuade the Regional GSA staff "to work expeditiously with the City, and with us if necessary, to accomplish this sale." Also, reference was made to a meeting Mr. Artiano was to have with the Administrator the following day.

On November 13, 1981, the Administrator and members of his staff met with Mr. Artiano and Mr. Blair who represented the Marriott Corporation. There were no minutes kept of the proceedings. Because of the varied accounts of the meeting, we were unable to reach a conclusion regarding the Administrator's position at that date or what influence the Marriott representatives might have had in the property disposal decision process.

On or about November 12, 1981, the Director, Office of Program Control, assigned a member of his staff to prepare a fact sheet on the 49 Fourth Street matter and make recommendations. The fact sheet was submitted to the Director on November 13, 1981, with a recommendation that the property be "exchanged". In the informal working papers of the Program Control Officer who prepared the November 13, 1981, fact sheet on the 49 Fourth Street matter, we found the following note: "11/16 - A decision was reached by A[1] to sell the property to the City of San Francisco. Action is now in FPRS[2]." This decision date coincides with the recollections of the former Director, Office of Program Control, in the Administrator's office, the Executive Assistant to the Commissioner, PBS, and the former Assistant Commissioner, Office of Space Management, PBS. These individuals recalled first learning of the Administrator's decision to sell the property after the November 13, 1981, meeting with the Marriott representatives.

[1] A - the Administrator

[2] FPRS - Federal Property Resources Service

Other evidence exists which suggests the Administrator's decision may have been made sometime around mid November. Various documents reviewed showed that the process of declaring the property "excess" to the needs of the Government began on or about November 18, 1981. PBS managers thought that the process to declare the property "excess" would have begun immediately after learning of the Administrator's decision. Also, the City of San Francisco did not become aware of the Administrator's decision until receipt of a letter dated November 25, 1981, from the Director, Real Property Division, FPRS, Region 9. This letter informed the Mayor that the property had been surplused and requested that the City formalize its interest in purchasing the property.

Even though the Administrator recalled signing the decision paper on October 30, 1981, there was no documented evidence available to indicate that he reached his decision to sell the 49 Fourth Street site prior to November 16, 1981. Whether or not the Administrator made an earlier decision "in his own mind" cannot be determined. If he had made the "sell" decision on October 30, 1981, it is not clear (1) why the PBS fact sheet/decision paper was retained by the Administrator for over two weeks before PBS obtained and acted upon his decision; (2) why the City was not notified of the Administrator's decision until about November 25, 1981; (3) why the Administrator's Program Control Director, who was the point of contact in the Administrator's office for this particular matter, was not notified of the Administrator's decision until after November 13, 1981; and (4) why the Administrator agreed to a meeting with Marriott representatives.

In summary, our review of the circumstances leading to the Administrator's decision to sell the property neither proved nor disproved that political considerations influenced his decisions.

Recommendations

For the Administrator

We recommend that:

1. A cost analysis, comparing the economic advantages of the various "sale" and "exchange" scenarios, be obtained and used in determining the disposition of the 49 Fourth Street property, San Francisco, California.
2. An updated and amended appraisal report, considering the special use benefits which might accrue to the intended property recipient, be obtained and used in sale or exchange negotiations.

BACKGROUND

The Government currently owns an 11 story steel and concrete building (47,475 square feet of land) at 49 Fourth Street, downtown San Francisco, California. The structure, built in 1926, was purchased by the Government in 1947 and utilized until 1973 as the Regional Offices for the General Services Administration (GSA) and the Veteran's Administration. In 1973, the building was declared seismically unsound and was vacated by the Government. Region 9, PBS, has been seeking approval for the construction of a new Federal office building on the site, citing the scarcity and cost of commercial rental space in the San Francisco area. Funding requests have been before Congress since 1977 but no action had been taken.

Since 1979, the City of San Francisco has tried to acquire the GSA site so that it can be included as a part of the Yerba Buena Redevelopment Project. The GSA site, if obtained by the city, would be sold or leased to one of the developers of the Yerba Buena Project, the Marriott Corporation. Acquisition of the GSA site would make feasible the construction of a major hotel complex on the GSA site and an adjacent lot which is owned by the City.

At the Administrator's direction the property was declared excess on November 18, 1981, and declared surplus to the needs of the Federal Government on December 1, 1981. The property was appraised and sale negotiations resulted in the submission of an Offer For Purchase by the City for $17.4 million.

OFFICIALS WHO MAY BE ABLE TO PROVIDE ADDITIONAL INFORMATION ON ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of Office	
	From	To
Central Office		
Public Buildings Service		
Commissioner:		
R. Haase	Nov. 1981	Present
Federal Property Resources Service		
Commissioner:		
C. Jones	Jun. 1982	Present
Office of Real Property		
Assistant Commissioner:		
E. Jones	Jan. 1979	Present
Region 9		
Federal Property Resources Service		
Director, Real Property Division		
A. Pace	May 1974	Present

Federal Property Resources Service and Public Buildings Service
Comments on the Inspector General's Audit Entitled
"Proposed Sale of The 49 Fourth Street Property, San Franciso, California"

Our files reflect that on September 3, 1971, the San Francisco Regional Office wrote the Schlesinger - Arcon/Pacific Corporation concerning General Services Administration's (GSA) interest in accomplishing an exchange of certain properties, including Fourth Street. This expectation was never realized and on October 17, 1972, we wrote the company that we were abandoning the exchange plan. In the ensuing years, various other exchange plans were considered. More recently, we were engaged in exchange planning with the city of San Francisco. None of these exchange proposals ever came to fruition and on September 18, 1981, the city of San Francisco wrote of their interest in an outright purchase of the property. This long but fruitless history of exchange planning hardly supports the implied criticism that the November 1981 decision to negotiate a sale to the city was an action taken in haste.

Our contract appraiser, Arthur E. Gimmy, M.A.I., determined that the appraised fair market value of this property, based upon the highest and best use, was $15,325,000 as of January 5, 1982. On January 27, 1982, he wrote an explanatory memorandum which explained his reasoning in finding that no plottage factors enhanced the value of this site. His reasoning follows: "Our studies of downtown land sites have indicated that once the parcel is suitable for high-rise construction, there is no extra value added because of having a larger than normal site. This conclusion has also been supported by recent sales of land in the Financial District, such as the current site of the Gerald Hines development upon an entire block of land facing California Street."

During the initial negotiating session, the San Francisco Redevelopment Agency offered between $5 and $6 million for this property. This value, they explained, was dictated by the property's proposed usage for hotel purposes. The value was futher diminished by the property's (when improved and producing an income) pro-rata responsibility for costs associated with "gardens" and other non-income producing portions of this 22-acre development. Another consideration which would depress value consists of several "contributions" required by the city. A March 16, 1982, report by the redevelopment agency's economic consultant described these "contributions". One is the city's Transit Development Fee. This fee (it is currently in litigation) provides for a charge of $5 per square foot against the gross building area in newly constructed office buildings. The other requirement obligates developers to meet certain housing guidelines in connection with the development of new office space. This housing requirement, as it applies to the GSA site, obligates the developer to construct or rehabilitate 400 units or contribute $6,000 a unit ($2,400,000) to the City Housing Fund.

The GSA negotiators insisted that they were basing our selling price on the property's highest and best use (for office use) and that they would not consider reducing the price based upon any "contributions" or liability for expenses of non-income producing project property. This was the basis for the instructions to Mr. Gimmy to value the property on a "STAND-ALONE BASIS". This insistence of our negotiating team prevailed and we eventually received an offer of $17,400,000 in cash. This exceeds our appraised fair market value by

$2,075,000. The contract also obligates the purchaser, in the event of default and resale by the Government at a lower price, to pay us the difference.

On page 3 of the audit report there appears the statement "The 49 Fourth Street site, according to a January 1982 appraisal, has more than tripled in value during a recent two year period". Presumably, the appraisal referred to is the one prepared by Mr. Gimmy, but we are unable to find any such statement therein. In any event, the March 16, 1982, report by the redevelopment agency's economic consultant suggests that the San Francisco market for office buildings may be "softening". The appraisers in the Office of Real Property are in general agreement with this view but, of course, they cannot quantify it. The October 4, 1982, copy of Business Week features an article titled "End of the Office Boom". This contains a reference to many San Francisco companies now dumping on the sublease market office space they had earlier leased in anticipation of expansion plans that have now been placed on hold. The insertion of the nonstandard clause obligating our purchaser to pay any losses on resale appears to have been farsighted. Obviously, this only applies in the event of nonperformance by the purchaser - not the Government.

As far back as 1971, the Tudor Engineering Company performed a structural survey of the improvements at 49 Fourth Street and concluded that both buildings had significant structural defects and described what corrective measures would have been necessary to bring the buildings up to requirements. The regional office then performed a retention/disposal study of the buildings which concluded that the cost of making the structural corrections, coupled with the needed mechanical, electrical and architectural work, was almost as costly as new construction. The ravages of time and mandated life safety and accessibility requirements since 1971 have certainly worsened this situation. This property is now regarded as a site, although technically it is improved with two buildings. The Public Buildings Service (PBS) is not required by regulations and does not make a comparative analysis when excessing a site. Such a requirement would be highly theoretical in its application. The one obvious disadvantage to the PBS is that by excessing, as opposed to exchanging, they lose a building site and do not receive the proceeds from the sale.

A former official in the PBS has publicly expressed his disagreement with the excessing action as the site leaves the GSA inventory and the proceeds of the sale are deposited in the Land and Water Conservation fund and therefore are unavailable for GSA use. However, the Administrator must adopt a less parochial view. He is responsible for implementing an Executive Order program designed to cause unused and underutilized real property to be reported excess and the proceeds of sale to be applied to reduction of the national debt. He enthusiastically supports this endeavor and in recent months he has made five presentations to the Property Review Board which recommend the excessing of real property under the jurisdiction of other Federal agencies. We understand that a sixth presentation will soon be ready for his consideration. It would be somewhat hypocritical of him to to take these actions and not come to a similar resolve with respect to a property under his jurisdiction which has received only marginal utilization since 1973.

A time phased plan of action does not accompany these comments because it is inapplicable.

REVIEW OF SELECTED INVESTIGATIVE ACTIVITIES OF THE OFFICE OF OVERSIGHT

SEPTEMBER 22, 1982
9D-20962-00-00

SEPTEMBER 22, 1982

EXECUTIVE BRIEF
REVIEW OF SELECTED INVESTIGATIVE ACTIVITIES OF THE OFFICE OF OVERSIGHT

NATURE OF REVIEW

The Office of Inspector General has performed a review to ascertain all pertinent facts concerning alleged investigative activities by the Office of Oversight that exceeded delegated authorities and, possibly, violated Federal statutes.

Due to the serious nature of the allegations, the review included (1) investigations of specific actions by Office of Oversight personnel in obtaining employee statements and records, (2) assessment of selected Office of Oversight activities, and (3) legal evaluation of the delegated responsibilities and activities of the Office of Oversight as they pertain to the Inspector General Act of 1978.

In addition, consultations were held with the Department of Justice to determine whether any activities violated Federal statutes.

PROBLEMS FOUND

-- The Office of Oversight has established an investigative unit beyond the purview of their authority.

-- The Office of Oversight has performed investigative activities beyond the purview of their authority.

-- The Office of Oversight has violated GSA Orders.

-- The Office of Oversight has violated assurances given to the Congress by the Administrator that no investigative responsibility would be conferred on the office and that no conflict would exist with the Office of Inspector General

CAUSES OF PROBLEM

-- Disregard for GSA Orders, Congressional mandates, and assurances from the Administrator that no investigative activities would be carried out within the Office of Oversight.

CONCLUSIONS AND RECOMMENDATIONS

Definitive actions are necessary to assure the Congress, GSA employees and managers, and the public that the Administrator (1) recognizes that employee misconduct and criminal investigative functions in GSA are the sole responsibility of the Office of Inspector General, and (2) does not endorse an investigative unit or activities within the Office of Oversight.

Accordingly, it is recommended that the following corrective actions be taken immediately:

1. Abolish the Office of Program Oversight within the Office of Oversight.
2. Issue an order clearly stating that the Office of Oversight possesses no investigative authority or functions. A proposed order is included as Attachment A.

ADMINISTRATOR'S RESPONSE

The Administrator, in his response to the draft report, stated he had made these decisions:

1. Certain functions that have been performed in some instances by the Office of Oversight will be discontinued.
2. The order establishing the Office of Oversight will be revised to eliminate those responsibilities which require investigative efforts.
3. By a copy of this memorandum, the Director, Office of Oversight, is notified of these decisions and will initiate compliance with them.

These actions do not reach as far as those that we had originally proposed, but will generally satisfy the intent of our recommendations.

The Administrator also indicated that a principal issue raised by the report involves ". . . any agency head's ability to make investigations through the basic agency organization." Additionally, he stated that it was his intention to request an opinion from the Department of Justice as to whether or not the IG Act of 1978 diminishes the long standing power of an agency head to look independently into the functioning of any element under his responsibility.

We never intended to raise this issue and we agree that an agency head can independently review any operations within his agency. However, for an agency head to create new units with the same basic purposes and functions as those explicitly vested by Congress in the Inspector General would, in our view, directly contravene both the letter and spirit of the Inspector General Act.

INTRODUCTION

The Office of Inspector General has performed a review to ascertain all pertinent facts concerning allegations by GSA officials that the Office of Oversight was exceeding delegated authorities and, possibly, violating federal statutes.

Due to the serious nature of the allegations, a specifically focused review was conducted on alleged investigative activities of the Office of Oversight. Our review included (1) investigations of specific actions by Office of Oversight personnel in obtaining employee statements and records, (2) assessment of selected activities of the Office of Oversight, and (3) evaluation by Counsel to the Inspector General of the delegated responsibilities and selected activities of the Office of Oversight as they pertain to the Inspector General Act of 1978.

In addition, consultations were held with the Department of Justice officials to determine whether the specific activities of the Office of Oversight violated Federal statutes, and should be criminally prosecuted.

The review also took into consideration the recognized authority and responsibility of the Administrator to provide for evaluating and monitoring GSA operations and those legislated authorities and responsibilities of the Inspector General.

BACKGROUND

The Office of Inspector General was established pursuant to Public Law 95-452, October 12, 1978. Among the expressed purposes of the Act was the creation of independent and objective units to conduct and supervise investigations relating to programs and operations of the General Services Administration (GSA).

The GSA Orders implementing the investigative responsibilities of the Inspector General are:

1. GSA Order ADM 2640.1, June 8, 1980, Investigative Responsibilities Within GSA. This Order provides that:

   > "All allegations of fraud, abuse, and mismanagement, and any apparent or suspected violations of a statute, order, regulation or directive in connection with any program or operation of GSA are within the investigative jurisdiction of the Office of Inspector General." (Emphasis added.)

2. GSA Order OAD P 5410.1, September 17, 1980, Chapter 3, Procedures for Taking Disciplinary Action. This Order provides that:

   > "In the instance of suspected irregularities involving fraud against the Government, or any type of misconduct which might be punishable as a criminal offense, supervisors should not institute their own inquiries but are required to report the matter immediately to the Office of Inspector General."

3. GSA Order ADM 7900.9, April 27, 1981, GSA Standards of Conduct. This Order provides that:

   > "It is the obligation of GSA personnel to report immediately any apparent or suspected violation of a statute, order, regulation, or directive in connection with any operation of GSA. The report shall be made to the Assistant Inspector General for Investigations. . . ." (Emphasis added)

The Office of Oversight was created by the Administrator on October 22, 1981 (ADM 5440.329) with responsibilities for:

> ". . . conducting independent review of agency programs within priorities established by the Administrator to determine the effectiveness, efficiency, and economy of GSA activities including the effect of GSA regulations on delivery of services to client agencies. Acts for and on behalf of the Administrator, receiving and evaluating employee complaints and serving as the Administrator's representative in recommending the resolution of complaints regarding wrongdoing, fraud, waste and mismanagement.
>
> "The office shall serve as the Administrator's central point of control for reports from the Inspector General, reports of the U.S. Comptroller General, and all other internal and external elements including the evaluation of management responses and the monitoring of recommendations."

The order was initially proposed without formally soliciting the official comments of the Inspector General. As a result the Inspector General met with the Administrator on October 22, 1981, to express concerns about certain aspects of the proposed order and intended role of the Office of Oversight.

The Administrator expressed assurances that there was no intention in establishing the Office of Oversight to conflict with or detract from the Office of Inspector General nor would such effect be permitted in its operation. The Administrator also specifically indicated that no investigative authority was to be conferred upon that organization and that its principal focus was to assure proper resolution and followup on OIG, Comptroller General and other audit and management reports.

RESULTS OF REVIEW

INVESTIGATIVE UNIT ESTABLISHED BY THE OFFICE OF OVERSIGHT

The Office of Program Oversight, Office of Oversight, has been established as an investigative unit even though the responsibility to investigate employee misconduct or criminal activity is not within the purview of the Office of Oversight's authority. Under the Inspector General Act of 1978, the Office of Inspector General is the sole investigative unit for employee misconduct and criminal activity within GSA. As a result the Administrator's assurances to the Congress and the Inspector General that no conflicts would arise because of the establishment of the Office of Oversight have been violated.

Our review disclosed that the Office of Program Oversight was established on March 26, 1982 and is being staffed primarily by personnel with law enforcement and investigative backgrounds. The Director and seven of the ten Oversight specialists in the Office have law enforcement or investigative backgrounds. In fact, these eight individuals have spent the majority of their Federal careers in the law enforcement profession. Two of the remaining specialists have auditing experience, while one has an extensive computer background.

The following schedule details the number of years of investigative or law enforcement experience and the former positions held by the Director and seven of the Oversight Specialists in the Office of Program Oversight.

Position Prior to Current Assignment	Law Enforcement and Investigative Experience	Current Grade	Date of Assign.
Deputy Director, Program Control	15 years	GM-15	10/81
Criminal Investigator	10 years	GM-13	11/81
Criminal Investigator	14 years	GM-13	11/81
Law Enforcement Specialist	17 years	GS-13	6/82
Law Enforcement Specialist	24 years	GS-12	In Process
Criminal Investigator	21 years	GS-13	6/82
Supervisory Protection Officer	26 years	GS-13	7/82
Law Enforcement Specialist	9 years	GS-12	In Process

It is obvious that the Office of Program Oversight is an investigative unit. However, the Office of Inspector General is the only investigative unit authorized to conduct personnel misconduct and criminal investigations by the GSA Orders and the Inspector General Act.

On July 31, 1981, Congressman Levitas, Chairman, Subcommittee on Investigations and Oversight, Committee on Public Works, wrote the Administrator and stated:

> "I recently read press reports that you have created a special post within your office to root out fraud and abuse within the agency . . .
>
> "As you know, the Congress specifically created the Office of Inspector General for this same purpose, and I would like to receive a report from you as soon as possible on what the function of the Inspector General's Office will become. . . ."

On August 11, 1981, the Administrator replied to Congressman Levitas regarding the task group which ultimately recommended the establishment of the Office of Oversight:

> "I am aware, of course, of concerns that have been voiced that there is some potential for conflict here; I can only assure you that I am sensitive to these concerns, and have discussed them with the Inspector General. I feel confident that all questions will be resolved in such a way as to assure that the Inspector General is the focal point for agency leadership on fraud, waste, and abuse, and that the independence of that office will be preserved as intended by law."

When the Office of Oversight was created on October 22, 1981, the Inspector General met with the Administrator to express concerns about certain aspects of the proposed order and intended role of the Office of Oversight.

The Administrator gave assurances that there was no intention in establishing the Office of Oversight to conflict with or detract from the Office of Inspector General. The Administrator also specifically indicated that no investigative authority was to be conferred upon that organization and that its principal focus was to assure proper resolution and followup on Office of Inspector General, Comptroller General and management reports.

The followup and resolution of audit reports generally require analytical, evaluation, sampling, risk analysis and other skills developed by auditors (GS-510), program analysts (GS-345) or management analysts (GS-343). Individuals in these areas are generally well versed in business operating procedures, policy formulation, as well as accounting transaction analysis and management evaluation techniques.

The personnel initially hired for this office were classified as GS-345 program analysts. However, in April, 1982, the program analysts were reclassified to the (1800) investigator series as GS-1801 Oversight Specialists at the request of the Office of Oversight. Also, since April 1982, five of the eight persons were hired and from a review of their backgrounds it is questionable whether they could be classified as program analysts. As shown in the schedule on page 4 they are investigators and law enforcement specialists.

Apparently, these positions were classified as GS-1801 Oversight Specialists in the investigator series because the position descriptions prepared for these positions by the Office of Oversight contain language which is similar to the language describing the duties and responsibilities of GS-1811 investigator positions assigned to the Office of Inspector General.

The Office of Personnel position classification standards specifically state that the investigator series should not be used to classify positions that involve primarily: ". . . work in analyzing operating programs to evaluate their effectiveness in achieving an organizations objectives. Such positions are classified in the appropriate subject matter series."

PERFORMANCE OF INVESTIGATIVE ACTIVITIES BY THE OFFICE OF OVERSIGHT

Since December 1981 the Office of Oversight has conducted investigative activities in at least four instances. These investigative activities, which are beyond the purview of their responsibilities, have become progressively more serious, have caused confusion to GSA employees and management officials, and prejudiced the prosecutive potential of a criminal case.

A first instance occurred on or about December 10, 1981, when the Office of Inspector General became aware that the Office of Oversight was receiving and processing complaints of employee misconduct. This information was received directly from the then Director, Office of Program Oversight who asserted the right of that office to perform such functions and refused to provide complaint information unless requested in writing. Subsequently, the Deputy Inspector General did make a written request for the information and also informed Oversight officials that the Office of Inspector General was the primary focal point within the agency for obtaining and reviewing such accusations. In fact, the Deputy Inspector General's memorandum noted that the GSA Standards of Conduct required GSA personnel to report any suspected violations in connection with any GSA operation, to the Assistant Inspector General for Investigations. Further, the Office of Oversight was requested to send all information which had been obtained to the Inspector General so that appropriate and proper action could be initiated.

A second instance occurred in February 1982, when the Office of Oversight targeted a particular GSA employee and interviewed that employee concerning specific wrongdoing four days after management action had been taken. At that time the Office of Oversight determined that duplicate names had been submitted to GSA and another Federal agency on van pool parking applications, apparently to obtain free parking privileges for six operating van pools. Because the duplication of names on parking applications is prohibited by GSA regulations, the Office of Oversight, which has operating responsibility for this area suspended the van pool parking permits on February 19, 1982.

On February 23, 1982, four days after the notification of the suspension, the owner of the van pool vehicles was contacted by Office of Program Oversight and told to report for an interview. Subsequent to this interview, which was conducted in an investigative fashion, the Office of Oversight referred the suspected irregularity to the Office of Inspector General, noting that the disclosed activities "raises the possibility of violations of 18 U.S.C. 1001 [False Statements] and 18 U.S.C. 371 [Conspiracy]."

The activities of the Office of Oversight are significant since the possibility of such criminal violations were clearly evident before interviews were conducted. Also, suspension actions had been taken and the Office of Oversight had confiscated the parking permits from the van pool vehicles before the interview and before referral of the item to the Inspector General for action.

A third instance occurred in June 1982, when the Office of Oversight sought to obtain access to official travel documents and specific employee travel vouchers maintained by GSA's Office of Finance as part of the Privacy Act system of records. In a meeting requested by and in the office of the Director, Office of Oversight, division level officials of the Office of Finance were requested to set up -- "in a discreet manner" -- a procedure to provide travel information, on specific employees on an as-needed basis when requested by the Office of Oversight. At this meeting a request was also made for travel vouchers of a specific GSA employee for a 90-day period.

The Office of Finance personnel denied both requests. In response, and as his authority for access to official travel records, the Director of Oversight cited the Order establishing the Office of Oversight, specifically referencing the broad authorities in Section 4 of the implementing Order. In addition, the Director, Office of Oversight contacted the Assistant Administrator, Office of Plans, Programs and Financial Management concerning the lack of cooperation by his people in providing access to official records.

The fourth instance occurred in May and June 1982, when the Office of Oversight conducted investigative activities by interviewing eight GSA employees, including the target of the investigation, and obtained or sought to obtain a variety of official and personal records relating to a GSA employee. These actions were taken in response to an anonymous allegation which potentially involved significant abuse of time and leave, and potential fraud against the government. During the course of the investigation Office of Program Oversight:

-- Utilized Office of Oversight credentials to obtain official documents from GSA employees including annual attendance records and selected weekly time and attendance records.

-- Requested GSA employees to obtain personal documents of an employee under investigation without the employee's knowledge or consent.

-- Recorded dates, times and nature of appointments from the employee's personal records regarding health, business and religious affairs without the employee's knowledge or consent.

- Interviewed GSA employees concerning the departure and return time of the employee under investigation.
- Conducted a confrontational interview of the employee under investigation regarding abuse of sick and annual leave, allegedly being absent from the office on 38 occasions without taking authorized leave.
- Prepared a report for the Administrator, on the employee under investigation, alleging the leave abuses resulted in "loss in excess of $3,000 to the U.S. Government."

Additionally, during the course of this investigation, Office of Program Oversight officials requested official timekeeping documents from the Office of Finance. When the Director of Finance questioned their authority, Oversight representatives told him that the Director of the Office of Oversight could arrange for the Administrator to explain directly to him Oversight's authority.

This instance of investigative activity was referred to the Department of Justice. The Department of Justice rendered a preliminary prosecutive opinion indicating that a violation or violations of the criminal provisions of the Privacy Act had apparently been committed by members of the Office of Oversight. However, the opinion concluded that such violations would, under the circumstances, not be appropriate for actual prosecution and the recommendation was made that the matter be referred for appropriate administrative action.

In all of the above instances, the Office of Program Oversight activities focused upon specific individuals, when particular abuses, crimes or apparent violations of public statutes were evident. In addition, the office's activities involved gathering, obtaining and reviewing official documents and personal information, interviewing employees and documenting their statements, as well as intimidating GSA managers and employees.

CONCLUSIONS

The Office of Oversight has established an investigative unit that has performed investigative activities beyond the purview of their authority. This occurred despite: (1) written assurances by the Administrator to the Congress that the Office of Oversight would not conflict with the Office of Inspector General, (2) oral assurances to the Inspector General that no investigative authority was to be conferred on the Office of Oversight, (3) the existence of GSA Orders prior to October 1981 clearly delineating that investigative responsibilities are within the purview of the Office of Inspector General, and (4) the continuing clarification by the Inspector General to the Office of Oversight that the supervision and coordination of investigative activity is the legislated responsibility of the Office of Inspector General.

More specifically, the actions of the Office of Oversight clearly demonstrate that (1) the Administrator's assurances regarding investigative activities have been disregarded, (2) existing GSA Orders outlining investigative responsibilities have been ignored and (3) the investigative mandates of the Inspector General Act of 1978 have been debased.

RECOMMENDATIONS

Definitive actions are necessary to assure the Congress, GSA employees and managers, and the public that the Administrator (1) recognizes that employee misconduct and criminal investigative functions in GSA are the sole responsibility of the Office of Inspector General, and (2) does not endorse an investigative unit or activities within the Office of Oversight.

Accordingly, it is recommended that the following corrective actions be taken immediately:

1. Abolish the Office of Program Oversight within the Office of Oversight.

2. Issue an order clearly stating that the Office of Oversight possesses no investigative authority or functions. A proposed order is included as Attachment A.

ADMINISTRATOR'S RESPONSE

The Administrator, in his reply of September 22, 1982, stated that he had made the following decisions in response to our draft report of July 23, 1982:

1. Certain functions that have been performed in some instances by the Office of Oversight will be discontinued. Specifically, those functions described at paragraphs 28 c. and d. of Part 5 of Chapter 14 of the GSA Organization Manual will be modified or deleted.

2. The order establishing the Office of Oversight will be revised in numbered paragraphs 2. and 4. to eliminate those responsibilities which require the employment of investigative efforts of the Office of Oversight to accomplish, and to clarify other responsibilities.

3. By a copy of this memorandum, the Director, Office of Oversight, is notified of these decisions and will initiate compliance with them.

While these actions do not reach as far as those that we had originally proposed, they do, by clearly providing that the Office of Oversight is not to engage in investigative operations, respond to the immediate concerns expressed in our report. Once implemented, the actions will generally satisfy the intent of our recommendations.

In his response to the draft report, the Administrator also indicated that a principal issue raised by the report involves ". . . any agency head's ability to make investigations through the basic agency organization." In support of this point he further stated:

-- "I find no exclusivity of legal authority granted to the Inspector General over the conduct of investigations, whether they involve the detection and elimination of fraud and abuse or any other matter of concern to the agency head."

-- "I know of no legal bar to performance by the agency head of any audit or investigation of agency programs or activities if he deems such action necessary, notwithstanding that the Inspector General has chosed to take or not to take action with respect to the matter at hand."

These statements clearly articulate the Administrator's belief that he possesses authority to conduct investigations and establish investigative units in his own right. The Administrator also stated that it was his intention to request an opinion from the Department of Justice as to whether or not the IG Act of 1978 diminishes the long standing power of an agency head to look independently into the functioning of any element under his responsibility.

We never intended to raise this issue and we agree that an agency head can independently review any operations within his agency. While we are sensitive to the necessary prerogatives of an agency head, we believe that the Inspector General Act did not leave such prerogatives entirely unaffected. An express and fundamental purpose of the Inspector General Act was the consolidation of audit and investigative resources and activities under the direction and control of a single Inspector General within each agency. For an agency head to create new units with the same basic purposes and functions as those explicitly vested by Congress in the Inspector General would, in our view, directly contravene both the letter and spirit of the Inspector General Act.

An ancillary issue included in the proposed Order for restating the authority and functions of the Office of Oversight, enclosed as an attachment to our draft report, the Inspector General provided for the returning of the GSA internal security function from the Office of Oversight to the Office of Inspector General. In his reply, the Administrator stated that the internal security function should remain within the Office of Oversight. The placement of the internal security function within the agency is now the subject of an ongoing Inspector General review initiated as a result of issues raised by the Office of Oversight. Accordingly, we are requesting the Administrator to defer any final decision on this matter until the report is issued.

ATTACHMENT A
1 of 3

PROPOSED ORDER

SUBJECT: Changes in GSA Organization

1. Purpose. This order establishes the Office of Administrative Services and Management Assessment, delineates the authorities of that office, effects related organizational changes and affirms the investigative, audit and associated responsibilities of the Office of Inspector General.

2. Background. For the purpose of assuring a vigorous, effective and proper effort to promote economy and efficiency and to prevent and detect fraud, abuse and mismanagement in the programs and operations of GSA, the following organizational changes are effected to reconstitute the Office of Oversight as the Office of Administrative Services and Management Assessment, to delineate the authority and responsibilities of that office, and to clearly affirm the authority and responsibilities of the Office of Inspector General in accordance with the provisions of the Inspector General Act of 1978. The Office of Administrative Services and Management Assessment shall be responsible for the administrative services of the agency, and in order to assure proper action is taken in response to reports of the Inspector General and the General Accounting Office, shall serve as the control point for the Administrator in assessing and reporting on the effectiveness of agency managers in taking appropriate action in response to such reports.

3. Changes in Organization

a. The Office of Oversight is reconstituted as the Office of Administrative Services and Management Assessment.

b. The Office of Administrative Services and Management Assessment shall consist of the following components:

(1) Office of Administrative Services

(2) Office of Report Resolution and Management Assessment

c. The functions, personnel, funds and associated equipment of the Office of Oversight not otherwise specifically referenced herein are transferred to the Office of Administrative Services and Management Assessment.

d. The Office of Program Oversight, Office of Oversight, is abolished.

e. The functions, personnel, funds, and associated equipment of the Office of Internal Security, Office of Oversight are returned to the Office of Inspector General.

4. Responsibilities

a. Office of Administrative Services and Management Assessment

The Office of Administrative Services and Management Assessment shall be responsible for the Administrative Services Program of the agency.

The Office of Administrative Services and Management Assessment shall monitor and assess on a continuing basis the effectiveness of agency managers in taking appropriate action in response to the findings and recommendations of audit, investigative and other reports of the Inspector General, the General Accounting Office and other management reports. The office shall further provide regular reports to agency managers, the Inspector General, and the Administrator of its findings and assessment as to such reports.

The office shall serve as the Administrator's central point of control for reports from the Inspector General, the General Accounting Office, and other management officials, and shall be responsible for monitoring recommendations of such reports, evaluating responses and assuring appropriate resolution.

b. Office of Inspector General

A principal purpose of this order is to clearly indicate that, within GSA, responsibility and authority for conducting audit and investigative activities with respect to the programs and operations of the agency rests solely with the Inspector General. The Inspector General is, in accordance with the Inspector General Act of 1978, further vested with the responsibility to recommend policies for, and to conduct, supervise, and coordinate activities carried out or financed by this agency for the purpose of promoting economy and efficiency in the administration of, and preventing and detecting fraud and abuse in, its programs and operations. Accordingly, all proposed activities of that nature shall be referred to the Inspector General for coordination and review, and any reports, findings, or action resulting from any such activities shall be submitted to the Inspector General as well as to the Administrator or his designee.

5. Authority and Relationships

The Director, Office of Administrative Services and Management reports directly to the Administrator. The Director is hereby delegated all authority necessary to and commensurate with the execution of responsibilities specified in paragraph 4, above, including personnel, budget, administrative, and procurement.

6. Implementing Actions. The Director, in conjunction with other appropriate officials, shall take actions necessary to implement this order. Management shall notify recognized labor organizations of this change, and upon request shall meet and discuss its impact on employees represented by such unions to the extent required or permitted by applicable laws, regulations, and negotiated agreements. The Director is authorized to cancel this order upon implementation.

APPENDIX I
Page 1 of 8

General
Services
Administration
Washington, DC 20405

Date SEP 22 1982

Reply to Attn of: The Administrator (A)

Subject: Two Inspector General Reports:
1. July 22, 1982 - "Report of Investigation" on Abuse of Authority, File No. H-00-54-2-004
2. July 23, 1982 - Draft Report on "Review of Selected Investigative Activities of the Office of Oversight"

To: The Inspector General (J)

This memorandum constitutes my response to the two reports forwarded to me on or about the dates indicated above. Before proceeding to the specifics, I want to state that, like you, I consider the matters contained in the reports and the questions that they raise to be of vital importance to the agency. In consideration of the importance attaching to the issues at hand, I established a committee of four of my highest ranking officials to review these matters. I have received their recommendations and have decided to take the following actions regarding the two reports:

1. Investigative Report of July 22, 1982.

The sole issue for my determination is the appropriate administrative action to be taken as a result of certain activities of two members of the Office of Oversight. The report alleges that their activities in the pursuit of a particular matter resulted in an apparent violation of the Privacy Act and of three GSA orders. After review and consideration, it is my determination that no actual violation occurred and it is my decision that no administrative action is necessary or appropriate. The "Disposition Report" form is attached.

I find that the individuals against whom the allegations have been made were engaged in an attempt to carry out what they interpreted to be responsibilities placed on them by me by the GSA order establishing the Office of Oversight. Inasmuch as the Privacy Act provides criminal penalties only with respect to improper disclosures that are made knowingly and willfully and permits disclosure to those agency officials with a need to know for the performance of their duties, no Privacy Act violation has occurred.

Consequently, I cannot hold them at fault in carrying out in good faith responsibilities which they believed had been assigned to them by me. This point leads directly to the subject of your second report.

2. Draft Audit Report of July 23, 1982.

This draft report focuses squarely on the larger issue surrounding the first report. It is your position that the Office of Oversight has ". . . established an investigative unit that has performed investigative activities beyond the purview of its authority." You have, therefore, raised the issue of any agency head's ability to make investigations through the basic agency organization. The corrective actions that you request that I take immediately are: 1) abolish the Office of Program Oversight within the Office of Oversight, and 2) issue an order clearly stating that the Office of Oversight possesses no investigative authority or function.

I recognize the legislative mandate of the Inspector General to be exceedingly broad and not subject to interference by any other official, but I find no exclusivity of legal authority granted to the Inspector General over the conduct of investigations, whether they involve the detection and elimination of fraud and abuse or any other matter of concern to the agency head. It is true that the law prohibits an agency head from preventing the Inspector General from initiating or carrying out any audit or investigation that the IG wishes to accomplish. Nonetheless, I know of no legal bar to performance by the agency head of any audit or investigation of agency programs or activities if he deems such action necessary, notwithstanding that the Inspector General has chosen to take or not to take action with respect to the matter at hand. Needless to say, there must be no interference with an ongoing Inspector General investigation.

Accordingly, I have considered your recommendations within the following principles:

1. It was my intention in establishing the Office of Oversight to be sure that its functions and responsibilities did not overlap or parallel those of your office.

2. It is my desire to effect a solution to the present problem that will best serve the agency and its employees.

3. Most important of all, I want all employees to clearly understand the proper functions and responsibilities of the two offices.

4. I am proud of the great progress that has been made in the past fifteen months, much of which is attributable to the type of organizational components we have established, and which we will continue to improve and fine-tune where we find it necessary.

   The invaluable contributions of the Inspector General and his staff to the steady progress and improvement of the agency are fully appreciated by me. The teamwork, coöperation and understanding that have marked our joint efforts are reflected in the significant success that has been achieved. I am confident that the strength and vitality that they have produced will grow and develop as we continue to work together for the mutual benefit of GSA and the entire Government.

Accordingly, it is my decision that:

1. Certain functions that have been performed in some instances by the Office of Oversight will be discontinued. To clarify this, orders will be revised promptly. Specifically, those functions described at paragraphs 28 c. and d. of Part 5 of Chapter 14 of the GSA Organization Manual (copy of pertinent page with appropriate changes is attached) will be modified or deleted.

2. The order establishing the Office of Oversight will be revised in numbered paragraphs 2. and 4. to eliminate those responsibilities which require the employment of investigative efforts of the Office of Oversight to accomplish, and to clarify other responsibilities. A copy of the Order with the appropriate changes is attached.

3. By a copy of this memorandum, the Director, Office of Oversight, is notified of these decisions and will initiate compliance with them.

Ancillary Issue

Although not emphasized in either of the two reports, a closely related matter is your stated desire to have the GSA internal security function transferred to the Office of Inspector General. That function was transferred out of the Office of Inspector General in 1979 by mutual agreement of the Administrator and the IG and is now assigned to the Office of Oversight.

It is my view that the internal security function is a programmatic function of the agency and therefore clearly within the intent of the Congress to be within the discretion of the agency head under his general organizational powers. It is my decision that the GSA internal security function shall remain within the Office of Oversight.

It remains my intention to rely upon the Office of Oversight to oversee the management control systems of this agency in accordance with OMB Circular A-123 and to examine any system or process and recommend necessary correction within that perspective. Such functions are not contemplated to involve inquiry into any individual conduct or complaints involving individual conduct.

Further, to resolve the fundamental question that you have raised as to whether or not the IG Act of 1978 diminishes the powers of an agency head to look independently into the functioning of any element under his responsibility, I have requested the General Counsel to obtain the opinion of the Department of Justice on this point. You will be promptly advised of the response.

I believe that this clear understanding, with mutual commitment by all parties, will be of lasting benefit to the agency and its employees.

Gerald P. Carmen
Administrator

Enclosures

General Services Administration
Office of Inspector General
Washington, DC 20405

DISPOSITION REPORT

OFFICE OF INSPECTOR GENERAL

To : Inspector General (J)

From : The Administrator

Subject : Report of Investigation, Copy No. 2
File No. H-00-54-2-004

Returned is your Report of Investigation which has been reviewed, evaluated, and final disposition made as indicated in the checklist below. The nature of the administrative actions is explained under DETAILS.

1. ( ) Personnel Action
2. ( ) Suspension/Debarment Action
3. ( ) Claims Awarded, Settled, or Denied - $____________
4. ( ) Restitution by Contractor - $____________
5. ( ) Savings to the Government - $____________
6. ( ) Agency Regulations Revised
7. ( ) No Action Warranted
8. ( ) Other

DETAILS: (Summarize details of action, including names of persons, and firms involved. If "no action warranted," give reasons. Enclose documentation supporting the final disposition.)

See attached memorandum entitled "Two Inspector General Reports" from Administrator to Inspector General for specific details and reasons as to why no action is warranted.

SEP 22 1982

Signature and Title of Authorized Official Date

COMMENT: (For Use of Office of Inspector General, GSA)

PART 5. OFFICE OF PROGRAM OVERSIGHT

Director of Program Oversight.

a. Reviews and assesses policies, procedures, regulations, and practices hin GSA to ensure they do not contain weaknesses that contribute to fraud, te, abuse, and mismanagement.

b. Conducts independent review of agency programs within priorities ablished by the Administrator to determine the effectiveness, efficiency, and nomy of GSA activities, including the effect of GSA regulations on delivery services to client agencies.

DELETE

[c. ~~Acts for and on behalf of the [illegible]ctor of Oversight in receiving and luating employee complaints, and rec[illegible]mending resolution of complaints cerning fraud, waste, abuse, and mismanagement~~]

[d. ~~Conducts inquiries to ensure that GSA elements are complying with ncy regulations concerning the prevention of fraud, waste, abuse, and management~~] Conducts management reviews and evaluates to ensure that GSA program areas are complying with agency establi internal control systems under OMB Circ A-123.

e. Reviews and evaluates findings from the Inspector General, the General ounting Office, and management study reports to determine if instances of ud, waste, abuse, and mismanagement exist in GSA.

f. Ensures corrections to the directives or conditions that permitted the ud, waste, abuse, or mismanagement to occur.

g. Develops policy regarding agency compliance with OMB Circular A-123, ernal Control Systems, and inspects to ensure that the policies are complied h.

thru 32. Reserved.

OFFICE OF PUBLIC

GSA ORDER

SUBJECT: Change in GSA Organization

1. Purpose. This order establishes the Office of Oversight and establishes the relationships necessary for its operation.

2. Background: The elimination of fraud, waste, and mismanagement from GSA is essential if GSA is to improve its effectiveness. While progress has been made, a great deal remains to be accomplished. The commitment of this Administration and my personal commitment to improve GSA is uncompromising. I am therefore establishing an office reporting directly to me for oversight, responsible for providing an independent assessment of program effectiveness and program delivery including the identification of systemic problem areas, assessment of necessary corrective action and preparation of action plans to be followed in correcting all programmatic deficiencies; for overseeing implementation of audit reports from the Office of the Inspector General and the General Accounting Office; for taking such internal security measures as are necessary to prevent misuse and theft of GSA assets; and for advising me on the efficacy of proposed corrective actions dealing with past abuses.

3. Changes in Organization.

a. The Office of Oversight is established.

b. The Office of Oversight shall consist of the following elements:

(1) Office of Program Oversight

(2) Office of Internal Security

(3) Office of Audit Resolution

(4) Office of Administrative Services

c. The functions, personnel and funds of the Security Division, Office of Security and Occupational Safety and Health are transferred to the newly established Office of Internal Security.

d. All functions, personnel, funds and associated equipment of the Audit Reports Control Office, Office of Organization and Management are transferred to the new Office of Audit Resolution.

e. The functions, personnel and funds within the Office of Data Systems, Office of Plans, Programs and Financial Management that are concerned with internal automated data processing security are transferred to the newly established Office of Internal Security.

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f. The functions, personnel and funds within the Office of Administrative Services, Office of Human Resources and Organization are transferred to the Office of Oversight.

4. Responsibilities. Office of Oversight .

This office is responsible for conducting independent review of agency programs within priorities established by the Administrator to determine the effectiveness, efficiency, and economy of GSA activities including the effect of GSA regulations on delivery of services to client agencies. [~~Acts for and on behalf of the Administrator, receiving and evaluating employee complaints and serving as the Administrator's representative in recommending the resolution of complaints regarding wrongdoing, fraud, waste and mismanagement.~~] In executing these responsibilities, the Director will have access to the resources of the Office of Program Control.

DELETE

This office shall be responsible for the Administrative Services Program of the agency.

The office shall serve as the Administrator's central point of control for reports from the Inspector General, reports of the U.S. Comptroller General, and all other internal and external elements including the evaluation of management responses and the monitoring of recommendations.

5. Authorities and Relationships. The Director, Office of Oversight reports directly to the Administrator. The Director is hereby delegated all authorities commensurate with the execution of responsibilities specified in paragraph 4 above, including personnel, budget, administrative, procurement, and security and the authority for necessary access to any and all GSA records.

6. Implementing Actions. The Director in conjunction with the Assistant Administrator for ~~Human Resources and~~ Organization and Personnel, and other appropriate officials, shall take actions necessary to implement this order. Management shall notify recognized labor organizations of this change, and upon request, shall meet and discuss its import on employees represented by the union to the extent required or permitted by applicable laws, regulations, and negotiated agreement. The Director is authorized to cancel this order upon implementation.

GERALD P. CARMEN
Administrator

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